



Lawmakers urged to fund colon cancer screenings

by Rob Weber
LRC Public Information

Kentuckians should have better access to colon cancer screenings, members of the General Assembly's Health and Welfare Committee were told during a Nov. 16 meeting by supporters of a proposal to direct \$8 million in state funds to a screening project over the next two years.

Funding for the Kentucky Colon Cancer Screening Program would save lives and lower health care costs, said Dr. Whitney Jones, founder of the Colon Cancer Prevention Project.

"Each year more people in Kentucky die from colon cancer than breast cancer, cervical cancer, HIV/AIDS and tuberculosis combined. All of those have public health programs to address the issue," Jones said. Kentucky's Colon Cancer Prevention Project, however, has remained unfunded since it was created in 2008, he said.

"By funding this program ... we can make education, prevention and early detection of colon

cancer a funded priority. The program will educate all Kentuckians about prevention and screening,

Funding would provide screenings to uninsured persons between the ages of 50 to 64 and others at risk for colon cancer.

as well as about early detection, and provide thousands of uninsured Kentuckians access to screening services."

Jones urged lawmakers to support Bill Request 275, legislation sponsored by Rep. Jim Glenn, D-Owensboro, and co-sponsored by Rep.

Bob DeWeese, R-Louisville. If approved during the 2012 legislative session, the proposed funding boost would come in two installments: \$3 million during the next fiscal year and \$5 million the following year.

Funding for the Kentucky Colon Cancer Screening Program would provide screenings to

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Reduction in agricultural development funds likely, lawmakers told

by Rebecca Mullins Hanchett
LRC Public Information

State and regional agricultural projects will likely have 36 percent less available state agricultural development funding this fiscal year because of the struggling economy, a state legislative committee was told on Nov. 9.

Kentucky Governor's Office of Agricultural Policy Chief of Staff Joel Neaveill told the Interim Joint Committee on Agriculture that the likely reduction in available Agricultural Development Fund dollars for state and regional investment follows a revision of Kentucky's official revenue estimate for fiscal year 2012 by the Consensus Forecasting Group, an independent panel that forecasts the state's revenue growth. The CFG revised the state's revenue estimate for the current fiscal year last month in Frankfort.

The anticipated reduction in available state and regional ADF dollars for fiscal year 2012 would exceed a 24.6 percent reduction in ADF dollars for state and regional investments that Neaveill said occurred in fiscal year 2011.

County agricultural development funds will not be affected by any projected reduction in ADF funds, Neaveill told the committee when asked what investments would be affected by committee co-chair Sen. David Givens, R-Greensburg.

Funding for the ADF is provided by tobacco settlement dollars from a 1998 national tobacco settlement that included Kentucky and 45 other states' Attorneys General. State General Fund money is not used to fund ADF projects, explained Neaveill.

The projected reduction was one of several issues raised by GOAP staff for legislative consideration during the upcoming 2012 Regular Session of the Kentucky General Assembly. Another issue, raised by GOAP Executive Director Roger Thomas, is the

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Kentucky leads nation in degree completion improvement, committee told

by Amy Rose Karr
LRC Public Information

Kentucky improved its percentage of adults with a college degree more than any other state during the first decade of the new Millennium. Bob King, President of the Kentucky Council on Postsecondary Education, presented this and other findings to Interim Joint Education Committee members on Nov. 14.

King shared a September report from the National Center for Higher Education Management Systems which also ranked the state first in six-year graduation rates at four-year institutions and undergraduate credentials awarded to young adults. Kentucky was second for the percentage of improvement of young adults with at least an associate degree.

The study also measured three-year graduation rates at two-year institutions and undergraduate credentials of at least one year. Kentucky placed third and fifth, respectively.

"There was no other state in the country that made more improvement during the decade of the 2000s than Kentucky in terms of these important measures of higher education performance," King said.

He also presented the council's strategic agenda to sustain the Commonwealth's level of growth in postsecondary achievement. Part of the plan asks the legislature to provide \$25 million of performance-based incentives in fiscal year 2014. Campuses could earn the funds by reaching goals such as increasing graduation

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Coal ash rules to be costly for state, lawmakers told

by Rebecca Mullins Hanchett
LRC Public Information

Proposed changes to federal rules governing the disposal of coal ash—the material left after coal is burned for electricity—will cost Kentucky’s electric utilities at least \$1.2 billion over 10 years, an LG&E/KU executive told a state legislative committee on Nov. 3.

John Voyles, who is vice president of transmission and generation services at LG&E/KU, told the Interim Joint Committee on Natural Resources and Environment that the cost to comply with the proposed coal ash regulatory changes, combined with other proposed or new federal Environmental Protection Agency rules, will cost the LG&E/KU alone approximately \$4 billion over 10 years.

Some estimate the total cost of current EPA regulatory changes to Kentucky’s regulated utilities could run between \$6 billion to \$8 billion over the 10-year period, Committee co-

chair Rep. Jim Gooch, D-Providence, said.

A draft rule governing disposal of the ash, or coal combustion residuals (CCR), is expected in late 2012 or early 2013, with compliance expected within five years of final rule approval, Voyles said. Changes would likely require “dry,” or landfill, storage of ash and closing of ash ponds where a percentage of “wet” coal ash is stored.

There are currently 43 coal ash ponds statewide, according to Kentucky Department for Environmental Protection Commissioner Bruce Scott.

Scott said although the federal EPA proposed regulating CCR as a hazardous waste initially, all 50 states want the ash to be regulated as a non-hazardous waste.

“A lot of folks, including ourselves, believe the material has a lot of value ... in re-use,” said Scott. If CCR were labeled as hazardous waste, it could create problems in industries where the ash is reused, including



Interim Joint Committee on Natural Resources and Environment Co-Chairs Rep. Jim Gooch, D-Providence, seated at right, and Sen. Brandon Smith, R-Hazard, at left, talk with Rep. Fitz Steele, D-Hazard, at the Nov. 3 meeting in Frankfort.

the manufacture of materials like wallboard and concrete.

Sen. Brandon Smith, R-Hazard, who is a co-chair of the committee, said coal ash is also used for composting in Europe. “It’s sought after and used over there because it cuts ... in half the bioconversion (time),” Smith said.

Gooch said there are many beneficial uses of coal ash. “When we burn coal, we do emit carbon—we all recognize that—but when you (make) concrete, that is also a process that emits a lot of carbon,” he said. “So, by using this process that’s already gone through the carbon emission,

you can actually save the carbon that would be emitted through the concrete process.”

Coal ash is commonly used to replace cement in concrete production, according to testimony on coal ash management from Danny Gray of Charah, Inc. of Louisville. Gray said replacing cement with ash reduces carbon dioxide emissions.

Legislation is now pending in the U.S. Senate that would essentially require CCR to be treated as non-hazardous, municipal landfill waste, Scott explained. The proposed legislation has Kentucky’s support.

Degrees, from page 1

rates and decreasing achievement gaps of underprepared students.

This new incentive would be a good way to stimulate further improvement, King said. More

than half of all states use some form of outcomes-based funding for postsecondary institutions. Currently, Kentucky does not tie higher education funds to performance.

Agriculture, from page 1

need for a permanent statutory change that would enable the Kentucky Agricultural Finance Corporation to provide an entity or individual with a low-interest loan greater than \$1 million and up to \$5 million.

The change would do away with the current legislative practice of creating an exception during budget sessions, held every two years, to existing law that enables the KAFC to offer the larger loans.

Thomas said the exception to current law—which allows existing law to be “not withstood,” in bill drafting terms—has been approved by the General Assembly over the last three budget cycles. KAFC’s assets have grown to almost \$40 million over the last four years, he explained.

Committee co-chair Rep. Wilson Stone, D-Scottsville, said he believes

the requested change could be “a subject for discussion as the session unfolds.”

“I think (other factors) along with the fact that it just takes larger projects to have the kind of impact that you want to have is certainly a logical reason to make that increase,” Stone said.

Thomas also suggested that state lawmakers change the definition of “beginning farmer” in state law from the U.S. Department of Agriculture’s definition to the state’s so-called “working definition” that Thomas said is more flexible. He explained the change would allow loans to be made that are not possible under the USDA definition.

The GOAP would also like to continue Kentucky’s federally-funded On-farm Energy Efficiency and



Rep. Kim King, R-Harrodsburg, talks with Rep. C.B. Embry, R-Morgantown, before the Nov. 9 meeting of the Interim Joint Committee on Agriculture.

Production Incentives Program which has served nearly 200 recipients with

federal stimulus dollars alone, Thomas said.

Task force hears options to address childhood obesity

by Amy Rose Karr
LRC Public Information

Kids are being fed too many empty calories, members of the Childhood Obesity Task Force were told in an Oct. 25 meeting by the creator of a program that encourages students to adopt healthier eating habits.

Kentucky is currently ranked third in the nation for childhood obesity by the Trust for America's Health. With 21 percent of the state's children considered dangerously overweight, future health problems are a growing concern, said Dr. Antonia Demas, President and Founder of the Food Studies Institute.

The Center for Disease Control predicts that almost half of all kids born in 2000 will develop Type II diabetes in their lifetime, Demas said.

Demas hopes to combat this issue through a research-based

curriculum she created called "Food is Elementary." The program, currently implemented in several Jefferson County public and private schools, aims to prevent childhood obesity by introducing children to healthy fresh food options and teaching them basic nutrition and life skills.

"We need to get government to take a stand and realize the health of our kids really does matter," Demas said, asking legislators to help her expand the program to every school in Kentucky.

In response to a question from Senate President Pro Tempore Katie Stine, R-Southgate, Demas reported that all Louisville-area schools participating in the curriculum showed dramatic improvements.

Legislators also heard testimony from Jefferson County Public School representatives about other nutrition and physical activity initiatives being



Rep. Tom Riner, D-Louisville, is a co-chair of the Task Force on Childhood Obesity. The task force was told on Oct. 25 about programs that encourage children to eat healthy foods.

Lawmakers hear road safety recommendations

by Amy Rose Karr
LRC Public Information

Members of the Interim Joint Committee on Transportation were asked in a Nov. 1 meeting to consider expanding Kentucky's primary seat belt law to include vehicles designed to carry up to 15 passengers.

Current state law requires seat belt use in vehicles designed to carry up to ten passengers.

Jason Gabbard, Chair of the Kentuckians for Better Transportation Safety Committee, said he considers Kentucky's law to be better than most states. Still, he wants the seat belt law expanded in accordance with recommendations presented by the National Transportation Safety Board (NTSB).

Current state law requires seat belt use in vehicles designed to carry up to ten passengers.

The NTSB provided legislators with a report on last year's crash on I-65 near Munfordville that killed 11 people. The accident involved a semi-truck and a van designed to carry up to 15 passengers. Most of the van's 12 occupants were unrestrained. The two survivors were in child safety seats and experienced only minor injuries.

If everyone had been wearing a seat belt "some injuries might have been mitigated and the likelihood of ejections would have been reduced," said Steve Blackistone, state and local liaison for the NTSB.

He also asked lawmakers to consider a complete ban on all cell phone use by commercial vehicle operators. NTSB investigators found the truck driver in the accident had used his phone while driving a total of 69 times in the 24 hours prior, including a final call placed the same time the accident occurred.

Some committee members wondered if a hand-held only ban would be sufficient, or if a specific law for commercial drivers should come from a federal level.

The NTSB doesn't differentiate between hand-held and hands free cell phones, as both are distracting to drivers, Blackistone said. No other states have yet enacted such a ban on hands-free phones.

implemented, including a Student Nutrition Advisory Council that allows students to test and provide feedback on new recipes before they are included on the cafeteria menu.

A number of the efforts discussed are supported by the Whole Foods Market in Louisville. Tim Roethgen, Marketing Team Leader for the Mid-Atlantic Region of the chain, said the store has expanded its missions to other parts of the state. The store partnered with the Rockin' Appalachian Mom Project (RAMP) to provide healthier food options to all public school

students in Martin County, where 35% of the population lives below poverty.

Whole Foods Market worked with RAMP and the Martin County School District to plant community and school gardens, provide healthy eating education, install salad bars in all 6 school cafeterias, and stock the local food pantry.

Their collaboration has made a difference, according to Inez Elementary School Principal Mike Cassady. "You'd be surprised how many kids will choose a salad if it's provided to them," he said.

Cancer screening, from page 1

uninsured individuals from age 50 to 64 and others at high risk for colon cancer.

With 150,000 Americans diagnosed with colon cancer, the disease is the nation's top cause of cancer death among non-smokers, Jones said. "Kentucky perennially has been among the top five worst states in the nation for mortality.

At any time, 10,000 Kentuckians are fighting colon cancer. It is a major problem."

Colon cancer deaths are 90 percent preventable with appropriate screenings and prevention efforts, Jones said. "Sadly, far too many times colon cancer is caught in the late stages as many people are underinsured and uninsured and don't have the means to pay for that information or for that screening."

The public needs more information about colon cancer and the importance of screenings, said George Foster of

Owensboro.

Foster told lawmakers that he was diagnosed with colon cancer and, on a recent doctor visit, told he had another three to four months left to live. "It's devastating for me right now because I was on the verge of retiring," he said.

Foster said awareness of colon cancer doesn't match the threat it poses. "We don't have enough information out there about colon cancer, colon cancer screenings, diagnoses and symptoms of what you may encounter or may not encounter," he said. "It's just not put out front like it should be."

Amid warnings that it will be difficult to find money to boost colon cancer prevention efforts during tight budgetary times, Jones urged lawmakers to consider screenings a part of the budget solution.

"It's fiscally responsible, allowing the state to save millions in treatment costs down the road," he said. "This is prevention in action."

2012 REGULAR SESSION CALENDAR
(Approved by LRC Co-Chairs 9/14/11)

JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6 *SEN-OP Rolling required for printed House Bills	7
8	9	10 (1)	11 (2)	12 (3)	13 (4)	14
15	16 Martin Luther King, R. Day HOLIDAY	17 (5)	18 (6)	19 (7)	20 (8)	21
22	23	24 (9)	25 (10)	26 (11)	27 (12)	28
29	30 (13)	31 (14)				

FEBRUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 (24)	7 (25)	8 (26)	9 (27)	10 (28)	11
12	13 (29)	14 (30)	15 (31)	16 (32)	17 Last Day for Bill Requests (33)	18
19	20 Presidents' Day HOLIDAY	21 (34)	22 (35)	23 (36)	24 (37)	25
26	27 Last Day for New House Bills (38)	28 (39)	29 Last Day for New Senate Bills (40)			

() Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 (43)	6 (44)	7 (45)	8 (46)	9 (47)	10
11	12 (48)	13 (49)	14 (50)	15 (51)	16 (52)	17
18	19 (53)	20 (54)	21 (55)	22 (56)	23 (57)	24
25	26 Concessions Only (58)	27 Concessions Only (59)	VETO	VETO	VETO	VETO

2012 REGULAR SESSION CALENDAR

* () denotes legislative day

APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 VETO	3 VETO	4 VETO	5 VETO	6 VETO	7 VETO
8	9 SINE DIE (60)	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 534th Meeting
October 5, 2011

Call to Order and Roll Call

The 534th meeting of the Legislative Research Commission was held on Wednesday, October 5, 2011, 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: Representative Greg Stumbo, Co-Chair; Senators R.J. Palmer II, Jerry P. Rhoads, Dan “Malano” Seum, Katie Kratz Stine, Robert Stivers II, and Johnny Ray Turner; Representatives Larry Clark, Robert R. Damron, Bob M. DeWeese, Danny Ford and Tommy Thompson.

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 the July 6, 2011, meeting; accept items A. through J. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through S. under New Business; and accept and refer as indicated items 1. through 42. under Communications. A motion was made by Senator Stine and seconded by Representative Clark. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred:

The minutes of the July 6, 2011 meeting were approved.

STAFF AND COMMITTEE REPORTS

Information requests July through September 2011.

Committee Activity Reports for July, August, and September 2011.

Reports of the Administrative Regulation Review Subcommittee meetings of July 12, August 15, and September 13, 2011.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting of July 11, 2011.

Committee review of administrative regulations by the Interim Joint Committee on State Government during its meetings of July 21 and September 28, 2011.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of

August 17 and September 13, 2011.

Committee review of Executive Reorganization Order 2011-534 by the Interim Joint Committee on Education during its meeting of August 1, 2011.

Committee review of Executive Reorganization Order 2011-353 by the Interim Joint Committee on Health and Welfare during its meeting of August 17, 2011.

Committee review of FFY 2012 Low Income Home Energy Assistance Program Block Grant Application by the Special Subcommittee on Energy during its meeting of June 22, 2011.

Committee review of FY 2012-2013 Community Services Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting of August 17, 2011.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 4** (relating to refunding transactions), **BR 46** (relating to property tax), and **BR 121** (relating to the gross revenues and excise tax fund and declaring an emergency) to **Appropriations and Revenue**; **BR 209** (relating to motor vehicle personal injury reparation benefits) to **Banking and Insurance**; **BR 75** (relating to educator evaluation), **BR 76** (relating to districts of innovation), **BR 84** (relating to career and technical education, making an appropriation therefor, and declaring an emergency), **BR 85** (relating to a high school technology diploma), **BR 159** (relating to career and technical education, making an appropriation therefor, and declaring an emergency), and **BR 165** (relating to school collection of data on body mass index, height and weight) and **BR 272** (relating to option school bus advertising) to **Education**; **BR 197** (relating to utility franchises) to **Energy**; **BR 19** (relating to the employment of persons with criminal records in long-term care facilities, nursing facilities, and assisted living communities), **BR 63** (relating to eligibility for public assistance), **BR 87** (relating to fingerprint background checks of long-term care employees), and **BR 158** (relating to the accreditation of health departments and making an appropriation therefor) to **Health and Welfare**; **BR 108** (relating to children), **BR 111** (relating to children), **BR 119** (relating to children), **BR 123** (relating to domestic relations), and **BR 136** (relating to the duty to report a dead body) to **Judiciary**; **BR 120** (relating to qualifications for military

service), **BR 175** (relating to the sale of alcoholic beverages at restaurants), and **BR 246** (relating to the provision for and control of casino gaming and making an appropriation therefor) to **Licensing and Occupations**; **BR 48** (relating to naming of public properties), **BR 112** (adjourning the Senate in honor and loving memory of Thomas O’Daniel), **BR 131** (adjourning the Senate in honor and loving memory of Willie Mathis, Jr.), **BR 132** (adjourning the Senate in honor and loving memory of Margaret B. Deters), **BR 189** (proposing to create a new section of the Constitution of Kentucky and to amend Section 226 of the Constitution of Kentucky relating to gaming), and **BR 211** (relating to public financing for judicial campaigns) to **State Government**; **BR 18** (relating to safety inspections for official vehicles), **BR 122** (relating to traffic control devices), and **BR 135** (relating to special license plates) to **Transportation**; **BR 88** (Resolution requesting the President of the United States and the Attorney General of the United States to abandon plans to try Waad Ramadan Alwan and Mohanad Shareef Hammadi in federal court in Bowling Green, Kentucky, and to transfer them to the detention facility at Guantanamo, Cuba, for trial by military tribunal) and **BR 154** (relating to the Veterans’ Personal Loan Program and making an appropriation therefor) to **Veterans, Military Affairs, and Public Protection**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **806 KAR 12:150** (Annuity disclosures) and **806 KAR 12:170** (Life insurance disclosures) to **Banking and Insurance**; **807 KAR 5:076** (Alternative rate adjustment procedure for small utilities) to **Energy**; **201 KAR 9:091** (Repeal of 201 KAR 9:090); **201 KAR 20:161** (Investigation and disposition of complaints); **201 KAR 20:370** (Application for licensure and registration); **201 KAR 22:045** (Continued competency requirements and procedures); **201 KAR 22:053** (Code of ethical standards and standards of practice for physical therapists and physical therapist assistants); **900 KAR 5:020 & E** (State health plan for facilities and services); **908 KAR 3:060** (“Means test” for determining patient liability); **921 KAR 2:040** (Procedures for determining initial and continuing eligibility); and **921 KAR 3:090 & E**

(Simplified assistance for the Elderly Program or “SAFE”) to **Health and Welfare**; **501 KAR 3:040** (Personnel); **501 KAR 3:050** (Physical plant); **501 KAR 3:090** (Medical services); **501 KAR 3:140** (Prisoner rights); **501 KAR 6:060** (Northpoint Training Center); **501 KAR 7:050** (Physical plant); and **501 KAR 7:140** (Prisoner rights) to **Judiciary**; **787 KAR 1:010** (Application for employer account; reports) to **Labor and Industry**; **201 KAR 3:045** (Recordkeeping and accounting); **201 KAR 3:081** (Repeal of 201 KAR 3:015 and 3:080); **201 KAR 3:090** (Administrative fees for applications and services); **201 KAR 5:110** (Expanded therapeutic procedures); **201 KAR 42:035** (Application process, exam, and curriculum requirement); **810 KAR 1:027** (Entries, subscriptions, and declarations); **810 KAR 1:070** (Kentucky Thoroughbred Breeders’ Incentive Fund); **810 KAR 1:145** (Advance deposit account wagering); **811 KAR 1:285** (Advance deposit account wagering); and **811 KAR 2:185** (Advance deposit account wagering) to **Licensing Occupations**; **301 KAR 1:015** (Boats and motor restrictions); **301 KAR 1:152** (Asian Carp Harvest Program); **301 KAR 1:201** (Recreational fishing limits); **401 KAR 42:005** (Definitions related to 401 KAR Chapter 42); **401 KAR 42:011** (Scope of underground storage tank program); **401 KAR 42:020** (UST systems: design, construction, installation, and registration); **401 KAR 42:030** (UST system general operating requirements); **401 KAR 42:040** (UST system release detection); **401 KAR 42:045** (Delivery prohibition); **401 KAR 42:050** (UST system release reporting, investigation, and confirmation); **401 KAR 42:060** (UST system release response and corrective action for UST systems containing petroleum or hazardous substances); **401 KAR 42:070** (Out-of-service UST systems, temporary closure and permanent closure of UST systems, and change in service of UST systems); **401 KAR 42:080** (Classification of UST systems containing petroleum and listing of associated cleanup levels); **401 KAR 42:090** (Financial responsibility); **401 KAR 42:095** (Lender liability); **401 KAR 42:200** (Annual fee for underground storage tanks); **401 KAR 42:250** (Petroleum storage tank environmental assurance fund reimbursement procedures); **401 KAR 42:290** (Ranking system); **401 KAR 42:300** (Third-party claims); **401 KAR 42:315** (Repeal of 401 KAR 42:314); **401 KAR 42:316** (Petroleum storage tank environmental assurance fund eligibility criteria for contracting companies and partnerships); **401 KAR 42:320** (Hearings); **401 KAR 42:330** (Small owners tank

removal account); **401 KAR 42:335** (Financial audits); **401 KAR 42:340** (Laboratory certification); **401 KAR 47:205** (Contents of the application for petroleum contaminated soil treatment facilities); **401 KAR 47:207** (Public information procedures for petroleum contaminated soil treatment facilities); **401 KAR 48:205** (Technical requirements for petroleum contaminated soil treatment facilities); **401 KAR 48:206** (Petroleum contaminated soil treatment facility liner soil layer quality assurance and quality control); **401 KAR 48:207** (Petroleum contaminated soil treatment facility liner geosynthetic quality assurance and quality control); and **401 KAR 48:208** (Petroleum contaminated soil treatment facility liner high-permeability layer quality assurance and quality control) to **Natural Resources and Environment**; **32 KAR 1:050 & E** (Political committee registration) and **32 KAR 1:070 & E** (Waiver from filing candidate election finance statement) to **State Government**.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Tanya Pullin to the Interim Joint Committee on Labor and Industry.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Hon. Henry L. Stephens as a full Commissioner of the National Conference of Commissioners on Uniform State Laws.

Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Martha Jane King to the Special Subcommittee on Energy.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing the following members of the Local Superintendents Advisory Council: Dr. Larry Vick (2nd District), Mr. Marian Ed McNeel (3rd District), Dr. Donna Hargens (4th District), Dr. D. Scott Hawkins (5th District), Ms. Dot Perkins (6th District), Ms. Elaine Farris (at-large), and Mr. Walter Hulett (at-large).

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum approving the Final Report of the Subcommittee on 2012-2014 Budget Preparation and Submission.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum approving the 2012 Regular Session Calendar.

From Bobby Sherman: Memorandum requesting approval of pre-filing deadlines for the 2012 Regular Session.

From Senate President David L.

Williams and House Speaker Gregory D. Stumbo: Memorandum approving the Reissuance of Request for Proposals for Consultant to Study Effectiveness of Economic Development Initiatives (2011 HJR 5).

From Senator Jimmy Higdon and Representative Fitz Steele, Co-Chairs, Program Review and Investigations Committee: Memorandum requesting the submission date for the Report on 911 Services to be changed to the date of the Program Review and Investigations Committee’s December meeting (currently December 8, 2011).

From Senator Damon Thayer and Representative Steve Riggs, Co-Chairs, Interim Joint Committee on Local Government: Memorandum requesting to meet on November 30, rather than the regularly scheduled meeting date of November 23 (day before Thanksgiving). There are no apparent conflicts.

From Senator Jack Westwood and Representative Teddy Edmonds, Co-Chairs, Education Assessment and Accountability Review Subcommittee: Memorandum recommending the reappointment of current members of the National Technical Advisory Panel on Assessment and Accountability.

From Senator John Schickel and Representative Dennis Keene, Co-Chairs, Interim Joint Committee on Licensing and Occupations: Memorandum requesting to meet on November 2, rather than the regularly scheduled meeting date of November 11 (Veteran’s Day). There is one potential conflict.

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

From Senator Tom Jensen and Representative John Tilley, Co-Chairs, Task Force on the Penal Code and Controlled Substance Act: Memorandum requesting authorization for a meeting on December 16 (beyond the statutory interim period) and requesting authorization to extend the date for its final report to December 16.

From Senator Tom Jensen and Representative John Tilley, Co-Chairs, Interim Joint Committee on Judiciary: Memorandum requesting authorization for a meeting on December 16 (beyond the statutory interim period). There are no apparent conflicts.

From Senator Tom Jensen and Representative John Tilley, Co-Chairs, Interim Joint Committee on Judiciary: Memorandum requesting authorization for a meeting on December 9 (beyond the statutory interim period).

From Bobby Sherman: Memorandum requesting approval for redistricting recommendations pertaining to geographic information used for initial reference.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Reports for the months of May, June, and July 2011.

From the Cabinet for Economic Development, Department of Financial Incentives: Loan data sheets for each loan approved as of the quarter ending June 30, 2011.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of June, July, and August 2011.

From the Auditor of Public Accounts: Report on Compliance with Civil Rights Laws Including Agency Title VI Implementation Plans, Updates, and Compliance Reports for FY 2010.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activities of Kentucky Retirement Systems.

From the Kentucky Council on Postsecondary Education: Transmission of report entitled Stronger by Degrees, A Strategic Agenda for Postsecondary and Adult Education.

From the Office of the Secretary of State: Uniform Commercial Code 355.9-527 Report.

From the Kentucky Commission on the Deaf and Hard of Hearing: Telecommunications Access Program (TAP) Annual Report FY 2011.

From the Personnel Cabinet: 2010 Annual State-Wide Turnover Report.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for the closing period (Accounting Period 13) and the months of July and August 2011 and year-to-date activity for FY 2011.

From the Kentucky Assistive Technology Loan Corporation: 2010 Annual Report.

From the Finance and Administration Cabinet: General Fund balance for FY 2012.

From the University of Kentucky, Kentucky Tobacco Research & Development Center: Quarterly Report for the period April 1 through June 30, 2011.

From the Justice and Public Safety Cabinet, Department of Corrections: Home Incarceration Program Annual Report for FY 2011.

From the Office of the Governor, Kentucky Office of Homeland Security: Kentucky Commercial

Mobile Radio Service Board FY 2011 Draft Annual Report.

From the Cabinet for Health and Family Services: Domestic Violence Batterer Intervention Provider Program FY 2010 Annual Report.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and for the period ending June 30, 2011; Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of June 30, 2011.

From the Kentucky Council on Postsecondary Education: Letter informing the Commission that all public higher education institutions are in compliance with the provision of information on preventing transmission of HIV/AIDS information to all freshmen and transfer students.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 2010; List of investments held by the Fund as of June 30, 2011; and Portfolio Valuations of the Fund as of June 30, 2011.

From the Auditor of Public Accounts: Examination of the Compliance and Oversight Related to Green River Marina's Lease Agreement with the Department of Parks.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of Sanitation District 1.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending June 30, 2011.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 2012 Annual Report.

From the Cabinet for Economic Development, Commission on Small Business Advocacy: 2011-2012 Annual Report.

From the Kentucky Legislative Ethics Commission: Recommended changes to the Legislative Code of Ethics 2011.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of June 30, 2011.

From the Cabinet for Health and Family Services, Department for Aging and Independent Living: FY 2011 Assisted Living Revenues and Expenditures.

From the Department of Education: KIDS NOW Bi-Annual Report for the period FY 10-11.

From the Cabinet for Economic Development: Linked Deposit Loan Investment Program FY 2011 Annual Report.

From the Tourism, Arts, and Heritage Cabinet: FY 2011 1%

Transient Room (Lodging) Tax Progress Report.

From the Cabinet for Economic Development: FY 2011 Annual Report for the Kentucky Investment Capital Network.

From Adjutant General Edward W. Tonini: Military Family Assistance Trust Fund, FY 2011 Annual Report.

From the Cabinet for Economic Development: Letter informing the Legislative Research Commission that there have been no grants, loans, expenditures, or commitments made from the Agricultural Warehousing Sites Cleanup Fund for FY 2011.

From the Tourism, Arts, and Heritage Cabinet, Kentucky Department of Fish and Wildlife Resources: FY 2011 Hunger Relief Program Report.

From the Transportation Cabinet: FY 2011 KPTIA Operating and Financial Statement.

From the Kentucky Board of Medical Licensure: 2011 Annual Report.

From the Cabinet for Health and Family Services: 2010 Report on Interstate Sharing of KASPER Data.

From the Tourism, Arts, and Heritage Cabinet: FY 2011 Kentucky Tourism Development Act Incentives Annual Report.

From the Tourism, Arts, and Heritage Cabinet: FY 2011 Kentucky Production Industry Incentives Annual Report.

From the Education Commission of the States: 2011 updated ECS Bylaws.

From the Energy and Environment Cabinet: Listing of agency-owned properties that were open and closed for hunting during FY 2011.

From the Teachers Retirement System: FY 2011 Annual Report.

ADJOURNMENT

There being no further business, the meeting was thereby adjourned at 1:40 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 5th Meeting of the 2011 Interim
October 12, 2011

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, October 12, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators Joe Bowen, Carroll Gibson, Paul Hornback, Bob Leeper, Vernie McGaha, Dennis Parrett, Joey Pendleton, Damon Thayer,

Robin L. Webb, and Ken Winters; Representatives Royce W. Adams, John "Bam" Carney, Will Coursey, Mike Denham, C. B. Embry Jr., Jim Glenn, Sara Beth Gregory, Richard Henderson, Kim King, Michael Meredith, Terry Mills, Fred Nesler, David Osborne, Sannie Overly, Tom Riner, Steven Rudy, Rita Smart, Wilson Stone, Tommy Turner, and Susan Westrom.

Guests: Roger Barlow, President, The Catfish Institute; Jeff McCord, Public Affairs Advisor, The Catfish Institute; Linda McGee, representing The Catfish Institute; Tamara Sandberg, Executive Director, Kentucky Association of Food Banks; Mandy Brajuha, God's Pantry Food Bank, Lexington, Kentucky; and David Neville, producer and auctioneer of Capstone Produce Market.

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

The September 9, 2011 minutes were approved by voice vote, without objection, upon motion made by Representative Mike Denham and seconded by Representative Richard Henderson.

Upon motion made by Senator Damon Thayer and seconded by Representative Wilson Stone, the Subcommittee Report on Horse Farming was approved by voice vote, without objection.

Upon motion made by Representative Mike Denham and seconded by Representative John Carney, the Subcommittee Report on Rural Issues was approved by voice vote, without objection.

Discussion of Catfish Labeling

Mr. Roger Barlow, The Catfish Industry, explained that the Institute's proposal to require restaurants to identify the country of origin of catfish is to let consumers know where their food comes from. He said that China and Vietnam supply approximately 80 percent of catfish imported into the United States. Much of that catfish is unregulated, and there are numerous examples of shipments being rejected at U.S. ports because of unsafe additives, residues of banned drugs, evidence of salmonella, and false labeling. Catfish grown in the U.S. are more strictly regulated and have stringent requirements regarding chemical use and additives. Mr. Barlow indicated that either the Department of Agriculture or the Cabinet for Health and Family Services could administer the oversight of the country of origin requirements by reviewing restaurant invoices and labeling requirements.

Jeff McCord, The Catfish Institute, stated that 5 states have enacted laws requiring restaurants to provide labeling information pertaining to the origin of catfish, and that restaurants

that advertise U.S. farm-raised catfish often see a rise in their sales.

In response to questions, Mr. Barlow said that country of origin labeling is already required at retail stores, but that restaurants are exempt. He explained that other meats such as beef, poultry, and pork are inspected by the United States Department of Agriculture, but catfish is not. The federal government does not have enough inspectors to man every port, so most of the catfish that comes into the U.S. is not checked. The Catfish Institute has asked the government to do more inspections, but Washington has been slow to respond. Mr. Barlow stated that if consumers are given a choice, he feels they would purchase U.S. catfish even if it cost more than imported catfish.

Mr. Barlow said that the importation of inferior and mislabeled catfish has caused a strain on the U.S. catfish industry. Farmers cannot compete when their competition does not have to follow the same rules. He pointed out that Kentucky has excellent water to raise catfish is in the top 10 catfish-producing states. Most of the catfish in the U.S. is raised in Mississippi, Alabama, and Arkansas.

In response to more questions, Mr. Barlow stated that the Farm Bill transferred the inspection of catfish from the FDA to the USDA. He said there has been no opposition from the USDA on proposed signage for the country of origin for catfish. He also stated that several states have enacted legislation requiring country of origin labeling, with varying enforcement and penalty provisions.

Ms. Angela Caporelli, Kentucky Department of Agriculture, stated that Kentucky catfish producers sell to Mississippi and Arkansas processing plants and is labeled as U.S. Raised Catfish. Several Kentucky producers are a part of the Kentucky Proud Program. She felt the proposed legislation would be an excellent consumer awareness program and has great potential in Kentucky.

Status of Food Supply in Kentucky

Ms. Tamara Sandberg, Executive Director, Kentucky Association of Food Banks, introduced Mandy Brajuha, External Relations Director, God's Pantry Food Bank, and David Neville, manager of Capstone Produce Market. Ms. Sandberg gave a brief overview of the prevalence of hunger in Kentucky, the Kentucky Association of Food Banks, Farms to Food Banks, and Food Policy Council.

Ms. Sandberg said that there are 800,000 individuals in Kentucky who do not know where their next meal is coming from, and that 30 percent of them do not qualify for federal nutrition programs. She said the annual

food budget shortfall for families in Kentucky was \$285 million, and that if the federal government cuts back on food nutrition programs, the non-profit sector will not be able to fill that gap.

Ms. Brajuha shared the story of a family who had always done everything the right way and had worked hard all their lives, but through no fault of their own, experienced a series of unfortunate incidents that lead them to God's Pantry.

Ms. Sandberg said that food banks were initially created to be an emergency food supply. A recent national study found that more than half the people who visited a food pantry in 2009 used the services for at least six months, and more than a third of them went every month. Ms. Sandberg stated that anti-hunger programs are more than just a safety net for individual families; they are investments in the communities. She said that only 11 percent of the adults in Kentucky eat the recommended daily amount of fruits and vegetables, and the rate is even lower for low income people.

Ms. Sandberg explained that the Kentucky Association of Food Banks provides food and quality services to as many Kentucky residents as possible. The Association has 7 districts that cover all 120 counties. Food and funding for food is collected from Feeding America, local donations, government sources, farmers, individuals, and foundations. The food is distributed to over 1,000 charitable feeding organizations. She said that almost 60 million pounds of food was distributed, but the demand for food services continues to increase. It will become a major issue if the supply of federal commodities is reduced any more.

Ms. Sandberg discussed other sources that the association uses to get food, including produce auctions and commodity groups. The association has established the Farms to Food Banks program that purchases surplus produce and distributes it to Kentuckians. The program addresses the need for food among vulnerable Kentuckians, it strengthens the farm economy, and it reduces the amount of food wasted. She said the pilot funding came from the Kentucky Agricultural Development Fund and was matched by the Wal-Mart Foundation. Ms. Sandberg said that with a budget of only \$136,000, the Association was able to purchase produce from 201 producers and distribute approximately 800,000 pounds in 108 Kentucky counties.

Ms. Sandberg stated that Michigan's Agricultural Surplus System receives \$755,000 a year from the state Department of Agriculture. In 2009, Michigan was able to purchase and distribute over 6 million pounds

of produce. Michigan also has a program that contracts with producers to buy a specific number of potatoes for a guaranteed contract price. Ms. Sandberg also described Ohio's 2 programs; the Food Purchase Program and the Agricultural Clearance Program. The Food Purchase Program buys commodities and processed food. The Agricultural Clearance Program is similar to Kentucky's Farms to Food Bank program. The Ohio General Assembly funds each program \$6.25 million annually.

Ms. Sandberg stated that in 2009, the Kentucky Department of Agriculture Surplus Agricultural Commodities Grant Program was established, but not funded. The association would like to see the creation of a Food Policy Council.

David Neville, producer and auctioneer with Capstone Produce Market, stated that producers were excited about the Farms to Food Banks program. It gives producers the opportunity to market their surplus crops and recoup their costs. In 2010, twenty counties and 283 producers participated in the Farms to Food Banks program.

In response to questions, Ms. Sandberg stated that from 2006 through 2010 the demand for the association's services has increased 84 percent. Ms. Brajuha stated that God's Food Pantry had the highest ever demand for services this past August, serving approximately 2,000 families.

Chairman McKee noted that the following informational items were available if any of the members wanted copies:

UK Tobacco Research & Development Center quarterly report for April 1 through June 30, 2011;

Cabinet for Economic Development letter informing LRC that no activity occurred regarding the Agricultural Warehousing Sites Cleanup Fund for FY 2011;

Report of the Audit of the KDA Spay and Neuter Program for FY 2011; and

Kentucky Small Business Development Center Annual Report.

There being no other business, the meeting adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Subcommittee on Rural Issues
Minutes of the 1st Meeting
of the 2011 Interim
October 12, 2011

Call to Order and Roll Call

The 1st meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Wednesday, October 12, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Mike Denham, Chair,

called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Mike Denham, Co-Chair; Senators Joe Bowen, David Givens, Bob Leeper, and Ken Winters; Representatives Will Coursey, Myron Dossett, C. B. Embry Jr., Kim King, Tom McKee, Terry Mills, and Steven Rudy.

Guests: Representative Keith Hall, Representative Jim Gooch, Representative John Will Stacy; Tom Fern, State Director, USDA Rural Development; Vernon Brown, Rural Utilities Service Program Director, USDA Rural Development; Scott Maas, USDA Rural Development; Dr. Becky Naugle, State Director, Kentucky Small Business Development Center; Charles Lovell, CEO, Caldwell Medical Center; Sarah Nicholson, Vice President of Government Affairs, Kentucky Hospital Association; Mac Stone, Department of Agriculture, Maury Cox, Kentucky Dairy Development Council and John Brooks, Kentucky Milk Commission member.

LRC Staff: Tanya Monsanto, Biff Baker, Stefan Kasacavage, and Susan Spoonamore, Committee Assistant.

Update on Federal Rural Development Assistance Programs

Tom Fern, State Director, USDA Rural Development, stated that the mission of Rural Development is to increase economic opportunity and improve the quality of life for all rural Americans. Mr. Fern discussed three service area programs for Rural Development: the Rural Business Service (RBS), the Rural Utilities Service (RUS), and the grant and loan programs supporting homeownership in rural communities.

The Rural Business Service includes 21 programs that are designed to help build competitive businesses that can prosper in the global marketplace. The RBS provides financial resources, technical assistance to businesses and cooperatives located in rural communities, and establishes alliances with partnerships to help create jobs and stimulate rural economic activity. Mr. Fern stated that Rural Development obligated approximately \$50 million through its Rural Business and Cooperative programs, including nearly \$42 million in the Business and Industry Guaranteed Loan Program. The Rural Energy for America program awarded 61 Kentucky agriculture producers and small, rural businesses approximately \$1.3 million for energy efficiency, biomass, and solar energy projects. RBS also awarded \$3.3 million to assist industries that are developing alternative biofuels such as biodiesel and wood pellets.

Mr. Fern explained that the Rural

Utilities (RUS) programs serve a leading role in improving the quality of life in rural America by administering the electric, telecommunications, water, and environmental programs in a service-oriented, forward-looking, and financially responsible manner. He stated that \$93 million had been awarded to assist rural Kentucky communities through the Community Facilities (CF) and Water and Environmental Programs (WEP). He said that RUS approved 25 WEP loans and 22 WEP grants to improve water and wastewater systems. The agency also awarded 24 CF grants and 8 loans, which were used for a wide variety of projects.

Mr. Fern also discussed rural homeownership programs. He said that the programs promote personal and economic security and encourage a sense of pride in the community. The programs have helped 3,500 Kentucky families purchase a new or existing home and assisted another 500 families with repairs. During FY 2011, the agency invested \$389 million in rural communities across the state.

In conclusion, Mr. Fern stated that due to the American Recovery and Reinvestment Act, Rural Development's investment in rural Kentucky communities surpassed \$1 billion in FY 2010.

In response to Representative Hall, Mr. Fern stated that applications for single family housing are approved rather quickly. The applications for water and environmental projects are more involved, so it can take up to four or six months before they are approved.

In response to Senator Bowen, Mr. Fern stated that depending on the program, a rural area is defined by the maximum populations as follows: 20,000 for single family housing; 20,000 for the Community Facility program, and 10,000 for Water and Environmental Program projects. He said that most of the rural business programs are 50,000, and there are no population restrictions for the value-added programs. The Rural Business Enterprise Grants program has a 25,000 population maximum. He said that Owensboro would not meet the definitions of a rural area.

Rural Business Development Programs Available Through the Kentucky Small Business Development Center

Dr. Becky Naugle, State Director, Kentucky Small Business Development Center, gave a brief overview of the Kentucky Small Business Development Center (KSBDC) – Rural Small Business Services. She explained that KSBDC is a statewide network with centers located in rural areas. Dr. Naugle stated that in 2010, there were 2,000 business

startups and 750 new jobs created with a total capital infusion of \$74,927,157. She said that KSBDC served various industries such as: service, retail, manufacturing, construction, wholesale, and start-ups that were not yet in business. In 2010, 42.8 percent of their clients were not in business or wanting to start a business because of the economy. In talking with rural business clients, their top needs are money and customers. The KSBDC works with clients to encourage good business ideas, cash flow management, using credit appropriately, market guidance, and good customer service. Dr. Naugle stated that KSBDC offers no-cost, confidential business consultations, affordable workshops, seminars and 24/7 online training, along with information to help them make well-informed business decisions. Dr. Naugle concluded by describing new services that target independent professionals, rural merchants, providing exporting support, and disaster recovery.

In response to Representative Denham, Dr. Naugle stated that KSBDC partners with KCTCS, but it is not a hosting partner because it does not provide funds. She said that KSBDC is a partnership program with the Small Business Administration (SBA). The SBA funds approximately 40 percent of the program. The KSBDC works closely with lenders by putting loan packages together and providing vital information to help lenders make qualified decisions.

In response to Senator Bowen, Dr. Naugle stated that KSBDC is funded through Higher Education and Economic Development. KSBDC is approximately a \$4 million program.

In response to Representative Dossett, Dr. Naugle stated that the number of clients wanting to start a business has changed this year. She said that eastern Kentucky has been slower in startups, and there has been a slight increase in western Kentucky. Northern Kentucky is still experiencing healthy growth, but central Kentucky is the busiest. Dr. Naugle stated that 80 percent of the businesses that started within the past two years are doing well. She said that more businesses have closed within the last three years than in the previous 20 years.

In response to Senator Givens, Dr. Naugle stated that several organizations are aware of the importance of retaining students who are exceptional in entrepreneurship, and they provide help to guide students to services to implement their ideas. Dr. Naugle stated that the main reasons that some businesses have failed include that they were not responsive enough to their clients' needs and they sometimes did not make good business decisions.

Current Issues Regarding Rural

Access to Health Care in Kentucky

Charles Lovell, CEO, Caldwell Medical Center, talked about the importance of Kentucky's Critical Access Hospitals (CAHs) to their communities and the challenges that they are facing. He stated that there are 71 hospitals in Kentucky's rural areas, with 29 of these facilities licensed as CAHs. He explained that CAHs are small, rural, acute care hospitals, limited to 25 beds. Because the 71 facilities have been designated as "critical," Medicare and Medicaid reimburses for services at 101 percent of cost. He stated that 40 out of 120 counties in Kentucky do not have an acute care hospital. It was important to note that rural hospitals and CAHs provide access to healthcare for the disadvantaged, low-income, and uninsured populations in those areas.

Mr. Lovell also stated that it was important to recognize that reductions in funding to hospitals from cuts in governmental programs, like Medicare and Medicaid, are likely to impact hospital employees and affect access to care. He said that Medicare and Medicaid represent approximately 67 percent of patient volume in an average hospital. For many rural hospitals, Medicare and Medicaid cover as much as 75 percent to 80 percent of all patients. As a result of the federal health care reform, rural hospitals will share almost \$1 billion in Medicare cuts over the next 10 years. A cut of 75 percent in Medicare disproportionate share payments and 50 percent of Medicaid payments will mean cutbacks for hospital workers, reduction of hours, and laying off existing employees.

Mr. Lovell explained that in 2014, 350,000 to 400,000 additional people will be covered under the state's Medicaid program due to mandated increases in eligibility under the federal health care reform law. Excluding critical access care facilities, the remaining hospitals will experience substantial Medicaid losses.

Mr. Lovell stated that another area of concern for rural hospitals is the impact of implementing Medicaid managed care. He said that if managed care companies reduce utilization rates or deny payment for services delivered to Medicaid patients, then hospital services and jobs could be adversely affected.

In closing, Mr. Lovell noted several proposals at the federal level that threaten rural providers. One of which would be disallowing the "Critical Access Hospital" status for CAHs less than 10 miles apart. If this proposal were to be accepted, it would result in the closing of Kentucky hospitals, Kentuckians would lose access to health care, and communities

would suffer the loss of payroll taxes. Other troublesome proposals include instituting a payment reduction in CAH reimbursement and removing shortage area designations. If the designations were changed, it would cause a significant loss of primary care providers to rural areas, hinder recruitment of health care providers, limit the development of rural health clinics, and put Kentucky communities at a disadvantage to access federal grant funding.

In response to Representative Denham, Ms. Sarah Nicholson, Vice President of Government Affairs, Kentucky Hospital Association (KHA), stated she would provide staff with the number of privately-owned hospitals and county-owned hospitals.

In response to Senator Winters, Mr. Lovell stated that the Medicaid population is the hardest to manage because they make more emergency room visits and the hospitals are not reimbursed.

In response to Representative Stacy, Mr. Lovell stated that some contracts might include pharmacies, but it depends on the negotiated contract. He said that only 15 out of 109 hospitals have signed contracts.

In response to Senator Leeper, Ms. Nicholson stated that the KHA does not get involved with the contract negotiations. It was the hospital's responsibility.

In response to Senator Givens, Ms. Nicholson said that the KHA is not advising their members to delay signing any contracts. The KHA has met with some of the companies trying to standardize contract language to make it easier for the hospitals to understand. It is up to each individual hospital to accept a contract. Furthermore, the KHA cannot advise on monetary issues. Mr. Lovell said he felt that each hospital was negotiating one-on-one throughout contract negotiations. He said he felt that the managed care organizations (MCOs) did have enough resources to work with the hospitals within the limited timeframe.

In response to other questions from Senator Givens, Mr. Lovell agreed that it was important that the MCOs were successful because if they fail, then it endangers the entire system. He said it is a challenge to make sure that each hospital gets the reimbursement needed in order to stay open, and he also realizes that if the MCOs do not survive, then there would be no Plan B. Mr. Lovell said the process had to be done quickly, and it would have been helpful if the MCOs had the same contract. He said that the MCOs were insured if they failed to make reimbursement to the hospitals. In the contract with Caldwell Medical Center, it states that the MCO

must settle all charges by the end of fiscal year. Mr. Lovell stated that the Coventry group had been unwilling to negotiate some terms, but the other two organizations were agreeable to deleting language that did not even apply to Caldwell Medical Center.

In response to Representative Stacy, Ms. Nicholson stated that the delay in getting contracts signed from October 1st to November 1st has been the lack of an adequate network. Ms. Nicholson agreed that the state could not certify to the federal government that there was an adequate network of hospitals and other health care professionals to take care of that organization. Mr. Lovell said it could be possible that some Medicaid recipients, not under the MCOs for Caldwell Medical Center, would be treated at the Center. If that were to happen, then the Center would be reimbursed at 90 percent for out-of-network.

Latest Developments with the Kentucky Milk Commission

Mac Stone, Executive Director of Agriculture Marketing and Product Promotion, Kentucky Department of Agriculture, reported on the progress of the Consumer to Farmer Support Program that is being pursued by the Kentucky Milk Commission (KMC). Mr. Stone explained that the KMC was able to secure some funding from the Agricultural Development Fund, which was matched with farmer money. He said the KMC wants to focus on providing consumers with a Kentucky Proud product at a competitive price. He said that the KMC wants to send a message to consumers that Kentucky dairy farmers are important to the economy, and a message to the dairy industry that working in a coordinated effort will allow all segments of the industry to prosper. He explained that, as a part of Kentucky Proud, the processors would purchase Kentucky Proud Dairy labels from the KMC for any product that can be verified as milk that was 100 percent produced and processed in Kentucky. He said that the KMC will work on behalf of the producers by establishing a marketing and promotion program, and will also work with producers to help improve their products. The KMC also wants to establish programs which will make funds available for haulers or processors, and to help producers in their farming operations. Mr. Stone stated that KMC will launch a pilot program with Southern Belle Dairy and Value Markets in Louisville to determine the basis for the cost of the label. He said that KMC would hire staff to administer the programs and coordinate activities, along with filing reports with the Governor's Office, Commissioner of Agriculture, and LRC.

John Brooks, Kentucky Milk Commission member, stated that the milk hauler shortage has reached the critical stage because the number of dairy farms has decreased. Because there are so few dairy farms, it is more difficult to find haulers, which further erodes the dairy processing infrastructure.

Maury Cox, Kentucky Dairy Development Council stated that establishing the Milk Commission has been a process of bringing all interested parties to the table. He said that consumers now want to know where their food comes from and the Kentucky Proud label will help meet those expectations.

In response to Representative Embry, Maury Cox said that he would talk to the folks at Bell Cheese in Grayson County to address their concerns regarding the supply of milk. It might be worthwhile to simplify the dairy regulations so milk can be promoted.

In response to Senator Givens, Mr. Stone stated that there will be some information/signage to direct the customer to the new product. The big retailers like the idea of the blue Kentucky Proud label.

There being no further business, the meeting adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 5th Meeting
of the 2011 Interim
October 27, 2011

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, 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 Walter Blevins Jr., Joe Bowen, Tom Buford, Jared Carpenter, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Alice Forgy Kerr, Vernie McGaha, Gerald A. Neal, Brandon Smith, Jack Westwood, and Mike Wilson; Representatives Royce W. Adams, Dwight D. Butler, John "Bam" Carney, Jesse Crenshaw, Ron Crimm, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Keith Hall, Jimmie Lee, Reginald Meeks, Lonnie Napier, Sannie Overly, Marie Rader, Jody Richards, Sal Santoro, Arnold Simpson, Tommy Turner, Jim Wayne, Susan Westrom, and Brent Yonts.

Guests: Secretary J. Michael Brown, Justice and Public Safety Cabinet; Mr. Mike Clark and Mr. Perry Nutt, LRC Staff.

LRC Staff: John Scott, Charlotte Quarles, Jennifer Hays, and Sheri Mahan.

Representative Meeks moved to approve the minutes from the previous meeting as written. The motion was seconded by Representative Denham. The motion carried by voice vote.

Chairman Rand informed the committee that the November meeting has been approved to be held on Tuesday, November 29.

Fiscal Impact of 2011 Regular Session HB 463

Secretary J. Michael Brown of the Justice and Public Protection Cabinet discussed the provisions and implementation of HB 463, the 2011 penal code reform bill. He provided a brief overview of the current inmate statistics, and provisions of the bill, focusing on the bill's requirements for the measurement and documentation of cost savings. He stated that there are 21,692 inmates in the Department of Corrections system. Of those inmates, 8,051 are housed in county jails, representing 37 percent of the felon population. He discussed the percentage of the total population that represents drug offenders, and repeat offenders.

Secretary Brown stated that the bill divides the fiscal savings into different cost saving areas. The bill requires the Department of Corrections to measure and document fiscal savings resulting from changes to the controlled substance act. These savings are to be used solely for expanding and enhancing evidence-based drug treatment programs. Twenty five percent of the documented savings from other law changes is directed to go into the Local Corrections Assistance Fund. These funds are to be used to supplement county jail reimbursement for housing a portion of the state felon population. A portion of the remaining savings is to be directed to expanded probation and parole services, additional pre-trial services, and the addition of drug court case specialists.

Secretary Brown discussed additional cost saving measures in the bill, including the use of risk and needs assessment tools, improvement of release planning services to expedite discharge of inmates, utilization of new types of supervision for offenders, and the expanded use of home incarceration. The Secretary provided the committee with additional information regarding these types of measures. He also provided examples of provisions of the bill which the Department had implemented. These include the implementation of bi-

weekly meetings with key staff, hiring 50 new parole officers, use of a violation matrix for probationers, and expansion of home incarceration utilization.

Secretary Brown discussed the challenges faced by the Department in implementing the provisions of HB 463. The Department has seen an increase in the prison population of about 1,000 additional inmates since July of 2010. The Department's current budget was based on flat population growth, leading to reduction in funds in some areas. The population will diminish by 1200 to 1300 in January 2012 when mandatory supervision is implemented. Another challenge for the Department is finding the resources to provide appropriate substance abuse programs to inmates who require this service.

Secretary Brown discussed the projected cost savings associated with the implementation of HB 463. It is estimated that once fully implemented, the provisions of the bill will provide \$42 million per year in savings.

In response to a question from Chairman Rand, Secretary Brown stated that the increase in prison population has been gradual, and the inmate population is actually lower than the projected. In January, there should be a decrease in the population by about 1300 inmates who will be transferred from incarceration to intensive supervision.

In response to a question from Representative Wayne, the Secretary answered affirmatively that substance abuse treatment programs have long waiting lists within the system, and it is hoped that the substance abuse treatment options and requirements in HB 463 will help reduce waiting times for entry into programs.

In response to a question from Representative Yonts, Secretary Brown replied that the Department is aware that the demand for services is greater than the availability of inmate services, especially in the area of substance abuse programs.

In response to a question from Representative Meeks, the Secretary answered affirmatively that the Department does expect to achieve \$42 million per year in cost savings, mostly through a reduction in the inmate population. The Department believes that the 50 new parole officers will be sufficient to cover the initial increase in parolees.

In response to a question from Senator Higdon, Secretary Brown responded that 17 of the 78 regional jails currently operate an in-house substance abuse program.

Consensus Forecasting Group preliminary revenue and economic forecast

Mr. Mike Clark and Mr. Perry

Nutt from the Legislative Research Commission presented the Consensus Forecasting Group's (CFG) preliminary revenue and economic forecast for the next two years. Mr. Clark provided a brief description of the statutory required reports from the CFG, along with an overview of the process used by the CFG to produce the group's reports. Mr. Clark discussed and provided statistics regarding various factors, both national and Kentucky specific, that influence the CFG's findings. The federal factors include total US nonfarm and manufacturing employment, housing starts, and real personal income. Kentucky factors include wages and salaries, and nonfarm employment.

Mr. Clark discussed the projected revenues for the General Fund over the next biennium. The CFG preliminary estimates for General Fund growth are 2.8 percent for fiscal year 2012, 1.8 percent for fiscal year 2013, and 2.4 percent for fiscal year 2014. Mr. Clark briefly discussed the 13.5 percent increase in the sales and use tax for September, and the 7.1 percent increase for the first quarter. He stated that the 7.1 percent increase is the highest quarter increase since Tax Modernization, when alcohol was added to the sales tax base. The CFG believes that this will be a onetime increase.

Mr. Clark then provided an overview of the fiscal years 2012, 2013, and 2014 General Fund estimates. The estimated revenue for FY12 is \$9,008 million, an increase of 2.8 percent, with significant increases seen in the corporate income tax. The estimated revenue for FY13 is \$9,172 million, an increase in yearly revenue of 1.8 percent. The estimated revenue for FY14 is \$9,397 million, an increase in revenues of 2.4 percent. There is a \$137 million increase seen in the FY12 October forecast as compared to the official FY12 October estimate, reflecting mainly the increases in corporate income tax.

Next, Mr. Clark discussed the Road Fund revenues, stating that the FY11 revenues surpassed FY08 pre-recession levels. The estimated revenue for FY12 is \$1,413 million, an increase of 5.5 percent. The estimated revenue for FY13 is \$1,496 million, an increase in yearly revenue of 5.9 percent. The estimated revenue for FY14 is \$1,582 million, an increase in revenues of 5.7 percent. The Road Fund is expected to increase by \$72 million in the FY12 October forecast as compared to the official FY12 October estimate.

Mr. Clark discussed the Master Settlement Agreement payment estimates. The current estimates are \$97 million in FY 12, \$92 million in FY13 and \$91 million in FY 14.

In response to a question from Chairman Rand, Mr. Clark responded that the CFG is required to produce its first forecast by August 14, the second forecast by October 15, and the final estimate by the 15th legislative day.

Being no further business, the meeting was adjourned at 2:40 p.m.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

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

Minutes of the 2nd Meeting
of the 2011 Interim

October 27, 2011

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, at 10:30 AM, in Room 129 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order. Note: Chair Smith proceeded with the presentations. The minutes of the July 28, 2011, meeting were not approved and a roll call was not taken. Members were noted as they arrived due to several meetings this day.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representatives Leslie Combs, Jim Gooch Jr., Terry Mills, Ruth Ann Palumbo, Tanya Pullin, Marie Rader, Fitz Steele, and Susan Westrom.

Guests: Sam Burgess, Kentucky Main Street, Carrollton; Chris Robinson and Holly Little, Kentucky Main Street, London; Nancy Turner, Preservation Kentucky; and Ned Sheehy, Community Ventures Corporation.

LRC Staff: Kem Delaney-Ellis, Perry Papka, and Marlene Rutherford.

Preservation Kentucky – Historic Preservation Issues Facing Kentucky

Nancy Turner, Chairman, Preservation Kentucky and Executive Director of Tourism for Winchester-Clark County area, Holly Wiedemann, President and Founder of AU Associates, and Chris Robinson, London Main Street, discussed the economic impact of historic preservation in Kentucky.

Ms. Turner explained that Preservation Kentucky formed in 1998 is a statewide, nonprofit entity dedicated to advocating and educating about the importance of preservation. Preservation Kentucky is dedicated to preserving buildings, structures, and

sites in all regions and cities in the Commonwealth. National partnerships include Preservation Action and the National Trust for Historic Preservation; the state partners include the Kentucky Heritage Council, Main Street Program, as well as having different heritage organizations throughout the state on local and regional levels. In 2005, Preservation Kentucky spearheaded the historic tax credit initiative which has been very successful. Since its implementation, it has created \$161.5 million re-generated back into the economy and several thousand jobs. Preservation is not only an economic tool but is an element that helps describe the state's unique heritage and history. Kentucky was one of two states to launch the rural heritage development initiative and has been able to help farm owners receive historic tax credits for barns and outbuildings, which have preserved the landscape.

Chair Smith indicated that this program is a wonderful tool for old buildings in a downtown area for funds to revitalize the area and receive a tax credit of 20-30 percent credit if the building is on the state historical society's list in addition to federal money. He asked that Ms. Turner provide any additional information regarding this program not contained in the packets for review or consideration should members want their district communities to participate in the program.

Ms. Holly Weiedemann discussed the impact the state historic tax credit has on AU Associates. Since its founding 22 years ago, AU Associates has done \$63 million worth of projects around the state, and the projects have created 5,400 jobs. Her company has done restoration on various old schools throughout the state and is currently working on an old federal post office in Jackson. These projects happen because AU Associates combines historic federal and state tax credits and housing tax credits. The state historic tax credit plays an important role in making these projects happen. The challenge on the state tax credit currently is the cap and the amount of funding is unknown because the state looks at how many projects are submitted and does a pro rata share.

In response to a question from Chair Smith, Ms. Weiedemann indicated that the state tax credit amount was originally \$3 million when passed with the assistance of Preservation Kentucky, and it is currently \$5 million. Because of the cap on the amount of tax credits, out of the \$5 million for this year, only 53 percent of the projects requested were allocated. If the cap was \$10 million, all the credits for projects could have been allocated that were requested.

She said it is important to understand that for every unit developed there are three jobs created, which translates to being able to create more jobs. She said that the states of Rhode Island and Missouri have a 25 percent tax credit available, and they are able to provide a significant amount of tax credits, which attracts federal dollars.

In response to another question by Chair Smith, Ms. Wiedemann indicated that projects are eligible for 20 percent tax credit for the total project costs. The federal tax credit is also 20 percent, however in Kentucky because of the cap, a project may be eligible for 20 percent but based on today's numbers would only receive 7 percent. She also said that the state tax credit allows Kentucky banks only to offset their franchise tax.

Chris Robinson works with the City of London and its Main Street Program. He also encouraged alleviating the cap on the tax credits. The Kentucky Heritage Council provides service to 72 participating communities. He stated that in 2010 the Kentucky Main Street Programs reported more than \$465 million invested in downtowns, representing the creation of 367 new businesses within the districts. Since its inception, the districts have generated more than \$3.5 billion of public and private investment over the past 30 years. The Main Street programs not only preserve historic buildings, but they also promote new business, innovation, and creativity, and foster community pride. There are only two dedicated staff persons at the Kentucky Heritage Council to guide the 72 communities participating in the Main Street Program to guide and assist the communities.

In response to a question by Chair Smith concerning ISTEAFunds or Intermodal Surface Transportation Efficiency Act funds, Ms. Wiedemann indicated that the ISTEAFunds are being threatened and that these funds are also an important tool. The threat of these funds underscores the necessity of increasing the cap for the state tax credits. She said that ISTEAFunds are used predominantly for projects in communities that are on existing federal highways. The funds can be used for the restoration of bridges, taverns, historic buildings that are contiguous or adjacent to a federal or state highway.

Kentucky State Nature Preserves Commission

Donald Dott, Executive Director of the Kentucky State Nature Preserves Commission updated the committee on the Commission's activities. The Commission's mission is to protect the biological diversity of the Commonwealth which he said is done primarily through determining what is out in the state and identifying

what is rare and unusual, what is the best natural place for the species and try to acquire the species and place in a nature preserve system.

The Commission recently developed a book published by the University Press of Kentucky entitled "Kentucky's Natural Heritage, An Illustrated Guide to Biodiversity." The book has many photos and information and is written in a way that the general public can follow and at the same time contains scientific information and a goal is to get the book into schools to use as a teaching resource for science classrooms to teach about the different species a biological environment of Kentucky. Kentucky has a lot of diversity in species that would be very effective in a classroom. Biodiversity is important because everyone completely depends on it; everything needed comes from the natural world, such as food, medicines, clothing, wood, and coal, and the biodiversity is what keeps it working.

He said Kentucky is an important state on a global perspective. The southeast United States is concentrated in the aquatic species.

In response to a question by Chair Smith concerning the suppression of the Asian carp in western Kentucky, Mr. Dott indicated that his Commission does not work directly on this species because this species is in the larger rivers such as the Mississippi and Ohio Rivers but it is a non native species. He said the biggest threat to biodiversity is land conversion and secondly the non native species such as the Asian carp because this type fish feeds on the native species in the river. Another concern is the black carp, which gets into ponds and small rivers when the Mississippi floods and gets into other areas where there are rare species and will feed on those species.

He said the Commission is treating pockets of hemlock trees that are being invaded by beetles to preserve trees from being totally destroyed so they can spread back out in the future after losing many of them. The University of Kentucky has been involved in research in Blanton Forest, Western Kentucky University does research in the Green River area, and Eastern Kentucky University has a strong biotic program. He said that the nature preserves are open to research. Mr. Dott stated that Kentucky is third in the country behind Tennessee and Alabama for the number of fresh water fish species stating there are 245 native species. Kentucky is fourth behind Tennessee, Alabama, and Georgia with 103 native mussels' species. Pink Mucket, a species of freshwater mussels, function as a filtering system pulling out bacteria and contaminants and algae out of streams and also serve as food for other wildlife.

He said that Kentucky has 54 percent native species of crayfishes and that 10 percent of the world's crayfish species are in Kentucky. To conserve the crayfish species that are spread throughout the state, several years ago the Commission put together an effort to look at creating a map of the state and identified the most important watersheds for protecting the species. The Green River is fourth nationally for the number of species of fish and mussels.

To determine which species are rare, the Commission inventories the state. The white-haired Goldenrod is a threatened species; the only place this plant is known to grow is in the Daniel Boone and Red River Gorge area.

The Commission also does bat surveys, but over the last couple of years has lost this position between cap reductions and retirements and were not able to replace this employee position. There is an exotic disease called white nose syndrome that is killing bats in large numbers. Much research is being performed to find a remedy. The employee who did bat surveys also performed bird surveys.

In addition to species inventory, the Commission inventories for natural areas or trying to find examples of the state where the environment is still in a condition that would have been before settlers in the 1700s with only about half of the state inventoried thus far. When this information is collected it goes into a database and is used to develop a preserve design as to the most promising area financially to be protected. He said that there are several preserves where hunting and fishing is allowed and some preserves that are jointly managed with the Department of Fish and Wildlife Resources. The primary purpose of the nature preserves is biodiversity protection which is why they are limited to passive recreation. The collected information goes into a Natural Heritage Program of Biological database which is feed into a national database that all fifty states participate in called Nature Serve which brings in information also from Canada and Latin America. This database is used also for data requests by universities on particular plants, trees, or fish species. This can also involve development projects such as utility corridors and road construction. The Commission also has set up with the Department of Natural Resources and Environmental Public Protection a system that helps that department review permit applications for surface mining and quarries and other resource development.

At this time Kentucky is about 47 percent forested. Mr. Dott also stated that Kentucky is losing to development approximately 130 acres per day, a loss of about 80 percent of the wetlands,

and an invasion of exotic species.

In response to a question by Chair Smith as to the best way to eradicate kudzu, a fast growing vine and exotic species, Mr. Dott indicated that herbicide is the best control for kudzu at this time and it takes a couple of years of application to kill it.

Mr. Dott stated that the Nature Preserves Program is geared to rare species and community management, research, education and outreach and passive outdoor recreation. There are 60 nature preserves at this time encompassing 25,000 acres.

Mr. Dott indicated that the Commission has done well with the nature preserves. There are 727 species of plants and animals listed as rare and of that 727 species there are over 200 that are protected on the nature preserves system or approximately one-third. Of the 62 natural communities in the state, 22 are protected within the state nature preserve system. Also, he said that the Blanton Forest State Nature Preserve is the largest old growth forest in the state with 2,300 acres and is 14th in the eastern United States.

Mr. Dott stated that the state has lost a lot of the prairie areas and a study was just completed this past year looking at remnants of the prairies. The Commission has been working with the Departments of Fish and Wildlife and Natural Resources to identify these areas to landowners who can use some of the habitat protection funds that come through the farm programs to protect these areas.

Mr. Dott indicated that next spring would be a good time for committee members to visit or take a hike in a nature preserve such as Floracliff in Fayette County or Lower Howard's Creek in Clark County, both of which are close to Frankfort.

Mr. Dott noted that Kentucky is the third largest producer of hardwood in the United States with \$6.3 billion generated in timber shipments since 2004 and employing over 22,000 people.

Some of the issues that affect the growth and success of the Commission are: restoring the position of zoologist to survey birds, mammals, reptiles and amphibians, which are keystone species that have major impacts on their natural communities and systems; expediting the natural area inventory and species surveys because of land conversion accelerating; and increasing the Nature Preserves stewardship staff to manage the 26,000 acres of nature preserves.

Representative Palumbo asked where the facts were obtained concerning the urban sprawl numbers. Mr. Dott said this information was provided by the Natural Resources and Conservation Services, which is part of

the U. S. Department of Agriculture. He pointed out that this included such things as road development, home development, resource development, and quarries, and that he would provide this information.

The meeting adjourned at 11:35 a.m.

INTERIMJOINTCOMMITTEE ON BANKING AND INSURANCE

Minutes of the 1st Meeting
of the 2011 Interim
October 20, 2011

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Thursday, October 20, 2011, at 10:00 AM, at the Marriott Downtown, Louisville, Kentucky, in conjunction with the Kentucky Credit Union League Annual Convention. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julie Denton, Dennis Parrett, Jerry P. Rhoads, Dan "Malano" Seum, and Brandon Smith; Representatives Dwight D. Butler, Will Coursey, Ron Crimm, Joseph M. Fischer, Danny Ford, Sara Beth Gregory, Mike Harmon, Dennis Horlander, Brent Housman, Dennis Keene, Michael Meredith, Brad Montell, Ryan Quarles, Jody Richards, Arnold Simpson, Tommy Thompson, and John Tilley.

Guests: Wendell Lyons, President and Debbie Painter, Director, Governmental Affairs, Kentucky Credit Union League; Jonathan Van Lahr, Owner, Brandenburg Pharmacy and Ralph Bouvette, American Pharmacy Services Corporation.

LRC Staff: Rhonda Franklin and Jamie Griffin.

Chairman Greer welcomed everyone to the meeting and noted that some members would not be in attendance due to a conflicting Tourism Committee meeting. Chairman Greer recognized Charles Vice, Commissioner, Department of Financial Institutions and his staff.

Chairman Greer recognized Wendell Lyons, President of the Kentucky Credit Union League. Mr. Lyons stated that he had a PowerPoint presentation regarding the history and philosophy of the Kentucky Credit Union League.

Credit Union Structure

Mr. Lyons stated that credit unions are member-owned, not-for-profit, financial institutions. Credit unions consist of volunteer boards, supervisory committees, and paid

professional staff. Credit union capital is accumulated retained earnings, and the membership is single sponsor, multiple group and community.

Credit Union History in Kentucky

Mr. Lyons stated that Kentucky became the 13th state to enact a state credit union act on March 24, 1922. Credit union pioneers Edward Filene, Roy Bergengren and Dora Maxwell were instrumental in their efforts with the Kentucky General Assembly in the passage of this legislation. The Kentucky State Credit Union Act predates the Federal Credit Union Act by 12 years which was passed by Congress in 1934. The first credit union charter in Kentucky was granted in November 1923, to the Berea Credit Union, which still exists today with 511 members and \$1.3 million in assets. The second charter was issued to the Louisville Federal Credit Union in 1924 and is still in existence with \$35 million in assets. There are 280 credit unions in Kentucky and 22,600 nationwide. In 1985, there were 217 credit unions in Kentucky with 437,856 members, and \$983,940,059 in assets, the largest being Commonwealth Credit Union with \$118.1 million in assets. By the end of 2010, there were 86 credit unions in Kentucky, with 722,983 members and \$6,030,908,551 in assets. He stated that as of March 2011 there were 7,431 credit unions in the United States, and 84 of those are in Kentucky, 60 of which are federally chartered and 24 are state chartered. The federally chartered credit unions are regulated by the National Credit Union Administration, and the state chartered credit unions are regulated by the Kentucky Department of Financial Institutions. He stated that all credit union deposits are federally insured up to \$250,000 by the National Credit Union Share Insurance Fund (NCUSIF), and the National Credit Union Administration is the administrator of that fund.

Shared Branching

Mr. Lyons stated that credit unions have historically been cooperative with one another. The Credit Union Centers of Kentucky, LLC, is a prime example. He stated that 14 credit unions formed this shared branching organization in 1999. There are two stand-alone centers in Louisville, plus 19 other locations across Kentucky and 4,400 locations nationally. Credit union members can visit these locations and make transactions on their credit union accounts. Participating credit unions pay a transaction fee to the shared branching network, typically in the \$2-\$2.50 range.

Chairman Greer stated that there was now a quorum of members and the minutes of the November 12, 2010, needed to be approved. A motion was

made by Senator Buford and seconded by Representative Montell. The minutes were approved.

Chairman Greer stated that there are two credit unions in his home community of Brandenburg, Kentucky, and they have always been outstanding community partners. He thanked Mr. Lyons for his presentation and opened the floor for questions.

In response to a question from Representative Harmon asking if credit unions offer a secured credit card, Mr. Lyons stated that some offer secured credit cards and some offer an alternative to payday lending.

In response to a question from Representative Ford asking how the economy is affecting the demand for loans and delinquency rates, Mr. Lyons stated that it is within the manageable range. He stated that federal regulation is a burden on small credit unions and credit unions have worked hard trying to get federal regulation repealed. Credit unions have money to lend and want to do business.

Reimbursement Practices on Independent Pharmacies

Chairman Greer recognized Jonathan Van Lahr, Owner, Brandenburg Pharmacy and Ralph Bouvette, Executive Director, American Pharmacy Services Corporation. Mr. Van Lahr and Mr. Bouvette addressed the challenges independent retail pharmacies across the state face with the advent of Pharmacy Benefit Management Companies. They stated that there are over 550 independent pharmacies in the state that are dealing with severe cuts in reimbursement rates and dispensing fees, or the abolition of dispensing fees. Many reimbursement amounts are less than the cost of the prescription to the pharmacy. They also raised the challenges they will face with Medicaid managed care.

In response to numerous questions from Senator Denton regarding the impact of the Medicaid managed care program on independent pharmacists, Chairman Greer requested that he and Senator Denton meet to discuss the issue.

With no further business, the meeting adjourned.

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

Minutes of the 5th Meeting of the 2011 Interim
October 20, 2011

Call to Order and Roll Call

The 5th meeting of the Interim

Joint Committee on Economic Development and Tourism was held on Thursday, October 20, 2011, at 9:30 AM, at the Kentucky Horse Park, Lexington. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Leslie Combs, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Denise Harper Angel, Ernie Harris, and Kathy W. Stein; Representatives Julie Raque Adams, Royce W. Adams, John "Bam" Carney, Mike Denham, Ted Edmonds, Jim Gooch Jr., Keith Hall, Melvin B. Henley, Wade Hurt, Thomas Kerr, Kim King, Adam Koenig, Donna Mayfield, Tom McKee, Terry Mills, Fred Nesler, David Osborne, Ruth Ann Palumbo, John Short, Fitz Steele, Addia Wuchner, and Jill York.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Cheryl Norton, President, Kentucky American Water; Matt Sawyers, Deputy Secretary, Tourism, Arts and Heritage Cabinet; and Hank Phillips, Deputy Commissioner, Department of Travel and Tourism.

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

Approval of Minutes

A motion and second by Representatives Hurt and Denham to approve the minutes of the September 15, 2011, meeting passed by voice vote.

Kentucky Horse Park

John Nicholson, executive director of the Kentucky Horse Park, updated members on the success of the park one year after the Alltech FEI World Equestrian Games (WEG). Based on an economic impact study commissioned by the Tourism, Arts and Humanities Cabinet, the games brought \$201.5 million to the state including \$45 million in wages, \$18.4 million in state taxes, and \$4.5 million in local taxes. In addition to the 70 national shows already held at the park annually, the state's investment in the park has resulted in 14 new equine events, twelve of which are annual events including the Alltech National Horse Show, which is the oldest and most prestigious horse show in America and was formerly held at Madison Square Garden. The economic impact of these new events is estimated at \$44.2 million. He noted that the cabinet is also currently conducting an economic impact study of the Horse Park.

Referencing *Chronicle of the Horse*, Mr. Nicholson quoted the equestrian sport publication's statements about the legacy the WEG left for United States horse sports. The park updates resulted

in it being the "go to" location for national championships and other major equine events including the Junior Rider Championships and the National Horse Show. The benefits for the industry and the state will be measured for years to come.

Mr. Nicholson noted the park's museum will feature an exhibit produced by the American Museum of Natural History, titled *The Horse*, and one of the park's educational programs, the Kentucky Horse Park Literacy Project.

Representative McKee thanked Mr. Nicholson for his efforts in promoting the park and his work during the games.

Representative Edmonds commented that an associate from Deville, France said the Horse Park is now the finest equine facility in the world.

Responding to Representative Carney's question, Mr. Nicholson said that each equine event participating at the park makes provisions for veterinary services per park requirements, and that there are top veterinary hospitals near the park.

Department of Travel and Tourism

Matt Sawyers, Deputy Secretary, Tourism Arts and Heritage Cabinet, noted the success of the World Equestrian Games and the dedication of Horse Park staff as well as the Department of Travel and Tourism.

Hank Phillips, Deputy Commissioner, Department of Travel and Tourism, outlined the agency's mission to promote travel to and within the Commonwealth. The vision is to enable the traveling public to understand and feel the uniqueness of Kentucky. In 2010, tourism resulted in an \$11.4 billion economic impact—\$2.5 billion in payroll and \$1.2 billion in local and state taxes, as well as 170,000 jobs. Mr. Phillips said the Southeast Tourism Society will announce that the department has been selected as the southeast state travel office of the year. Key to this award was "The Kentucky Experience" exposition at the WEG. The exposition was later moved to the Kentucky History Center and then to the state fair. Next year it will be a part of the *Travel South* conference in Louisville.

Mr. Phillips outlined other promotional efforts, which include commercials, the Kentucky Visitors Guide, and the award winning website launched in 2010. Upcoming events include the Civil War Heritage Trails Program, which is part of the Civil War Sesquicentennial; the Bill Monroe Centennial, the Kentucky Inaugural Sprint Cup Race, and the Senior PGA Championship.

Mr. Phillips explained the development of the new marketing

campaign, "There's Only One Kentucky," which came about through the use of focus groups and input from tour companies. The campaign includes sites that are unique to the Commonwealth, such as "Horse Capital of the World," Mammoth Cave, and the National Quilt Museum.

Mr. Phillips said the use of "ten second spots" in television commercial production helped budget advertising funds. The commercials were produced by a Kentucky company. Radio advertisements will be released in the spring of 2012. Other advertisements include print and banner ads in the visitors guide as well as online and social media.

Responding to Representative Julie Adam's question, Mr. Phillips said \$1.3 million has been spent on advertising.

In response to Senator Stein's questions, Mr. Phillips said Miles Media, headquartered in Florida, published the 2011 Visitor's Guide. It was selected through the state procurement process. Advertisements that are affiliated with the Tourism Cabinet are purchased by outside entities. The guide is published at no cost to the state—revenue is derived through advertisements. If income exceeds a certain percentage, the state receives dividends, although that has not occurred since contracting with Miles two years ago.

Kentucky American Water

Cheryl Norton, President of Kentucky American Water (KAW), discussed what the company and its parent company, American Water, can do to help economic development in the area. Ms. Norton gave an overview of the company and its history. KAW, with approximately 150 employees, provides water and waste water services to approximately 500,000 people in portions of 10 counties by producing 86 million gallons of water daily. During the World Equestrian Games, KAW saw its maximum usage with high temperatures being a contributing factor to increased demand. Ms. Norton said maintaining a substantial water supply has been an issue over the past 20 years. In 2008, KAW and the Public Service Commission agreed the best solution was a new 20 million gallon treatment plant and distribution system in Owen County. The facility was completed in 2010. Over 200 people were employed during construction. The project contributed more than \$1.1 million in new property and real estate tax revenue in the four counties involved, and the revenue supplied needed school funding during a period of cutbacks. Ms. Norton listed several of KAW's community project involvements. She noted how important having a sufficient water supply is to economic

development, pointing out this was a major consideration when Toyota Manufacturing came to Kentucky.

Responding to Senator Stein's questions, Ms. Norton said Fayette Urban County Government pays \$38 per month per fire hydrant in maintenance fees. With the addition of the new plant, community growth is sustainable for the next 15 to 20 years. Ms. Norton said usage per customer has declined in recent years due to the economy and other issues such as rainfall and more efficient homes.

In response to Representative Hall's question about new Environmental Protection Agency (EPA) regulations of storm water systems and other utilities, Ms. Norton said the new EPA regulations, costing millions, are challenging and costly to communities and customers. Many of the regulations are not based on scientific evidence. She said it is important to address these issues in a logical manner.

Responding to Representative Palumbo's question, Ms. Norton explained that KAW's limit of 17 or fewer notifications is self-imposed. She said as EPA regulations get more difficult to meet, it is more of a challenge to avoid getting notices of violation.

Independent Contractor Issues for Interpreters and Translators

Mr. William Graeper, Certified Languages International, travels in sponsorship of legislation that will classify interpreters and translators as independent contractors as opposed to employees of language service agencies. He stated in 2001 his language services company was audited by its insurance company, resulting in the company's interpreters being classified as employees. He considers interpreters to be independent contractors and not employees. Certified Languages International fought the decision and won. Mr. Graeper sponsored legislation in Oregon exempting interpreters and translators who are performing work under language service agencies from unemployment insurance taxes and workers' compensation taxes. His intent was to present the issue in a broad fashion before it comes to the committee as legislation in 2012. He has worked for the past ten years in sponsoring legislation regarding this issue, which has passed in Oregon, New York, and state of Washington.

Interpreters and translators are highly skilled workers. There are 7,000 individuals who are members of the American Translation Association. Most of those members are independent contractors and want to remain that way. These individuals are used by multiple language service agencies and not doing the work of the language service company itself, but

of interpreting and translating for the various entities that hire them.

In response to questions from Senator Harris, Ms. Bell, Chief Executive Officer of In Every Language, a Louisville based company, stated that there are nine language service agencies in Kentucky. In Every Language provides services nationwide. There are 2,500 companies that provide translation and interpretation services in the United States. The translators and interpreters could be placed by multiple companies in order to maintain their work load.

In response to a question from Representative Nemes, Mr. Graeper explained how language services are constantly battling the issue of whether interpreters and translators are independent contractors or employees. More enforcement actions are taking place among the individual companies nationwide, but it is ultimately a strain on time and resources to fight each individual case. Therefore, Mr. Graeper feels that it is better to approach the subject on the legislative level.

Ms. Bell stated that the language service industry is a \$31 billion market globally. In the United States, companies spend \$17 billion annually on language services. With 2,500 language service companies in the nation, only nine are located in Kentucky. She said it is tempting to move her business to another state because Kentucky has not taken a stand for the industry.

Senator Kerr advised the committee that a summary of employee misclassification in the construction sector is available in the members' meeting folders from the Kentucky State Building and Construction Trades Council.

Senator Kerr introduced Commissioner Dwight Lovan and Deputy Director Melissa Beasley, who were present to answer questions regarding independent contractors as it relates to workers' compensation insurance and unemployment insurance. Commissioner Lovan explained that whether a worker is an independent contractor is determined through case law. In the Kentucky Workers' Compensation Act, there is no definition of independent contractor nor is there any reference to such. An independent contractor is not an employee; therefore, workers' compensation does not apply. The four predominate factors to determine whether a worker is an independent contractor are as follows: the nature of the work in relationship to the employer's business; the extent of the employer's right to control the work activity; the professionalism and unique skill of the worker; and the true intent of the parties. The exemptions in the Kentucky Workers' Compensation

Act are in KRS 342.650 and an employee is defined in KRS 342.640.

In response to questions from Senator Harris, Commissioner Lovan said generally, a subcontractor who owns his or her own business and does business for different people would be viewed as an independent contractor. Commissioner Lovan said he could only find one citation two years ago for a translation business, and the fine was minimal. He did not know if it was in regard to in-house employees or agency interpreters.

In response to questions from Senator Kerr, Ms. Bell clarified that she had been fined by the Department of Workers' Claims. She said the company paid the fine instead of contesting the citation.

There being no further business, the meeting adjourned at 11:00 AM.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 5th Meeting
of the 2011 Interim
October 21, 2011

Call to Order and Roll Call

The 5th meeting of the Special Subcommittee on Energy was held on Friday, October 21, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Brandon Smith, 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 Ernie Harris, Ray S. Jones II, Bob Leeper, Johnny Ray Turner, and Robin L. Webb; Representatives Royce W. Adams, Rocky Adkins, Dwight D. Butler, Leslie Combs, Will Coursey, Jim Gooch Jr., Wade Hurt, Martha Jane King, Fred Nesler, Sannie Overly, Tanya Pullin, Tom Riner, Kevin Sinnette, John Will Stacy, Fitz Steele, and Brent Yonts.

Guests: Representative Teddy Edmonds, Representative Dennis Horlander; Holland (Hollie) B. Spade, Executive Director, Cabinet for Economic Development; Don Goodwin, Cabinet for Economic Development; Gary Crawford, CEO, ecoPower Generation LLC; Grant Curry, Vice President, Fuel Procurement, ecoPower Generation; John R. Taylor, President, C20 Technologies LLC and Robert J. Walty, Executive Vice President, C20 Technologies LLC; Steve Corbitt, Ashland City Manager and Tony Grubb, Manager and Director of Finance, City of Ashland.

LRC Staff: D. Todd Littlefield, Sarah Kidder, and Susan Spoonamore, Committee Assistant.

The September 16, 2011 minutes were approved without objection

by voice vote upon motion made by Representative Adams and seconded by Representative Adkins.

Discussion of 2012 BR 197

Representative Kevin Sinnette explained 12 RS BR 197: AN ACT relating to Utility Franchises: Amend KRS 96.010 to prohibit bidders for city utilities franchises from recovering the franchise fee from ratepayers through fees or surcharges on their bills. He said that the existing case law on the subject matter should be put into a statute. Representative Sinnette said that under constitutional provisions, municipalities and legislative governments have to have a franchise with utilities such as gas and electric companies. The utility companies have failed to follow the case law, claiming that the Public Service Commission (PSC) has allowed the utility companies to pass on the franchise fee to ratepayers. The PSC has no authority to circumvent the Constitution of Kentucky by telling the companies that they can pass the franchise on to the consumer. Representative Sinnette stated that the jurisdiction of the PSC is to set rates.

In response to Representative Pullin, Representative Sinnette said that a lawsuit was filed. He said that municipalities have the right to require that the franchise fee cannot be a line item on the customer's bill. If the utility company believes that it needs a higher rate, it must file for an increase with the PSC. He said that the PSC has no right to allow utilities to recover the franchise fee and put it on a customer's bill.

In response to Representative Gooch, Representative Sinnette explained that a municipality can say to a utility company that it cannot put the franchise fee on a bill as a line-item. If the utility company wishes to pass the franchise fee on to the customer, then the utility company needs to go to the PSC for a rate increase. The citizens cannot be charged for using their own right-of-way.

In response to Representative Gooch, Representative Sinnette said that a franchise was a contract that had to be passed pursuant to ordinance. He said that if a franchisee wanted to recoup the fee paid to the city, then it can go to the PSC. For customers who do not live in that city, then that would be between them and the PSC. The issue is that cities have to get a franchise with the utilities, and it has to be a reasonable and non-capricious franchise.

In response to Representative Yonts, Representative Sinnette stated that the franchise rates for cable-vision are federally mandated. He agreed that BR 197 should include language that the costs of a franchise not be a factor in setting rates rather than saying that

the utility company must go to the PSC to get it done.

In response to Representative Adkins, Representative Sinnette stated that the service area of Columbia Gas stretches beyond the City of Ashland. The issue of whether customers outside Ashland would have to pay for a rate increase because of what a city commission has done under a franchise fee is a question that would have to be answered.

Incentives for Energy Independence Act (HB 1)

Ms. Holland Spade, Executive Director, Office of Legal Services, Cabinet for Economic Development and Mr. Don Goodin, Economic Development Cabinet discussed the Incentives for Energy Independence Act (IEIA). Ms. Spade said that reducing energy dependence and achieving traditional economic development goals of investment and job creation addressed in House Bill 1. When talking to companies, one of the primary considerations is Kentucky's low electricity rates, and it is important to keep them low. National desperation for new energy sources equals opportunities for economic development in Kentucky.

Because of House Bill 1, the Cabinet is able to provide tax incentives for alternative fuel facilities, renewable energy facilities and gasification facilities. Also, per an amendment to House Bill 1, the following qualify for tax incentives as well: shale and tar sands as a resource; natural gas as an eligible feedstock; projects producing energy efficient fuels other than transportation fuels; and CO₂ pipelines projects. Those projects qualify for tax credits such as corporate income tax credits, sales tax credits, coal severance tax credits, and wage assessments. Ms. Spade stated that House Bill 1 also included funding of \$5 million for the Kentucky New Energy Ventures Fund (KNEV). The Kentucky Science and Technology Corporation (KSTC) is responsible for administering the program by providing grants as well as investing in small startup companies. The funds are invested in alternative renewable energy projects that are Kentucky-based, early-stage technology companies. For bigger IEIA projects, a cash option was included in the form of an advance disbursement. This option has not been used but is available if needed.

Ms. Spade said that as of October 1, 2011, there have been 11 projects approved under IEIA. Some of the projects date to 2007. She said it was important to note that, because the projects are not traditional, there is a longer timeline.

Presenting for ecoPower Generation LLC was Gary Crawford,

CEO, and Grant Curry, Vice President, Fuel Procurement. Mr. Crawford explained that ecoPower was founded in 2009 to build and operate renewable bioenergy facilities utilizing sawmill residuals and low quality logs as fuels. The project company, ecoPower Generation-Hazard, LLC, was formed to build and operate the first renewable biomass facility in Hazard, Kentucky. The goals of ecoPower are to increase America's energy independence, diversify the economic base and create jobs.

Mr. Curry talked about problems that forestry faces in Eastern Kentucky. He said that the forests are declining in productivity due to the lack of transportation and lack of development. There are good markets for high quality saw logs, but there is not a good market for poor quality trees that are beginning to dominate the landscape. EcoPower is hoping to provide a market for poor quality trees and/or low grade logs. There are three major setbacks for the wood industry expansion in Eastern Kentucky: lack of transportation; lack of secondary wood manufacturing; and lack of a local market for wood manufacturing residues.

Mr. Curry said that the major permits have been approved and the project is shovel ready. There are other permits to be obtained but that cannot be done until the project is under construction. ecoPower has been unable to negotiate a power purchase agreement. Assuming that an agreement can be reached, it would take an estimated 27 months to be up and running.

In response to Representative Stacy, Mr. Curry said that the BTU cost for using wood products would be roughly \$2.30 per million. EcoPower has considered using other types of biomass, but the primary object is getting the facility built.

In response to Senator Smith, Mr. Crawford said that project was given pre-approval for the amount of \$15 million in tax credits. The pre-approval was based on a 2009 preliminary estimate of the cost of the facility. The current estimate is higher than that now and ecoPower has recently reapplied to the cabinet for a readjustment based on the current estimated cost which is approximately 25 percent higher. He said that the \$15 million is a promise to offset future tax obligations.

Mr. Crawford stated that approximately 900 jobs, either directly or indirectly, would be created during the construction phase of the project, and 500 jobs would remain during the life of the facility. The direct annual local economic benefit would be around \$21 million a year. During the 27 month construction period, the economic benefit would be

approximately \$82 million.

Mr. Crawford noted that some of the challenges facing the project are financial market changes, regulatory uncertainty and financial access to capital. In addition, there are federal incentives available, specifically Section 1603, but that program is scheduled to lapse if construction on the project is not started in 2011. That would mean a loss of 60 million federal dollars coming into Kentucky.

Mr. Crawford stated that EcoPower is supportive of House Bill 1. The primary problem that the project is facing is obtaining a power purchase agreement. There is a policy mismatch between House Bill 1 and the Governor's Energy Policy. It would be beneficial to look at regulatory reform in the area of cost recovery. Utility incentives are another concern. Mr. Crawford said that another barrier is that incentives only kick in during construction and/or operation. He suggested doing something with incentives that would enhance the company's profile when it takes its projects to market.

Presenting for C2O Technologies were John Taylor, President, and Robert Walty, Executive Vice President. Mr. Walty explained that the Green River Plant No. 1 is a coal to oil type project. He said that 4 million tons of coal produce approximately 3.2 million barrels of synthetic crude oil per year. Another 2.5 million tons of specialty coal are for steel making. Mr. Taylor explained that lack of funding is hindering construction of the project. C2O Technologies has 3 interested potential investors--one from the United States and 2 from out of the country. Finding \$658 million for the project is very difficult in this economy. The main concern of investors is EPA's involvement and changing of regulations. In contrast, a large Chinese company has recently entered into an agreement with C2O to build three coal-to-oil plants in China.

Mr. Taylor stated that, in addition to coal-to-liquids production, C2O's technology can help reduce CO₂ emissions, increase efficiency in coal-to-oil operations and increase the use of biofuels.

In response to Representative Adkins, Mr. Taylor said that the technology is called partial pyrolysis. Eleven thousand tons of coal will yield 75 tons of an upgraded coal and 10,000 barrels of oil. In essence, C2O is distilling the coal.

In response to Representative Adkins, Mr. Taylor said that House Bill 1, with its incentives, enticed C2O Technologies to build a plant in Kentucky.

The meeting adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the 4th Meeting
of the 2011 Interim
October 19, 2011

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 19, 2011, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 1:05 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Tom Buford, Denise Harper Angel, Dennis Parrett, Joey Pendleton, and Jack Westwood; Representatives Julie Raque Adams, Bob M. DeWeese, Kelly Flood, Brent Housman, Joni L. Jenkins, Mary Lou Marzian, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, Ben Waide, David Watkins, Susan Westrom, and Addia Wuchner.

Guest _____ Legislators:
Representatives Keith Hall and Jimmie Lee.

Guests: Dave Adkisson, President and CEO, Kentucky Chamber of Commerce; John Johnstone, MD, Cardiology and Internal Medicine; A. Scott Lockard, Public Health Director, Clark County Health Department, and President of the Kentucky Public Health Association; Dennis and Kathy Nafus, Coalliance; Gary Hill, Administrator and President, Jane Hill, Licensed Clinical Social Worker, and Janet Messer, Lighthouse Counseling Services; Mark Hamm, M.Ed., NCC, LPCC, CEO, Phoenix Preferred Care; J. Michael Benfield, MD, CEO and President, MD2U, Louisville; Allen Rose, Vice President for Business and Government Relations, and Dr. Hieu Tran, Dean of the College of Pharmacy, Sullivan University; Eric T. Clark, Kentucky Association of Health Care Facilities; Betsy Janes, American Lung Association; Nathan Goldman, Kentucky Board of Nursing; Scott Wegenast, AARP; Bill Doll, Kentucky Medical Association; Joetta Venneman, Sisters of Charity Nazareth; Mike Porter, Kentucky Dental Association; Andrea Plummer, Kentucky Youth Advocates; and Anne Joseph, Covering Kentucky Kids and Families.

LRC Staff: DeeAnn Mansfield, Miriam Fordham, Ben Payne, Jonathan Scott, Katie French, and Gina Rigbsby.

Minutes

A motion to approve the minutes of the September 13, 2011 meeting was made by Representative Burch, seconded by Senator Harper Angel, and approved by voice vote.

Subcommittee Report

Senator Denton, Co-Chair of the Health Issues and Aging Subcommittee, reported that the subcommittee met and heard presentations on the Acquired Brain Injury (ABI) Medicaid waiver program. Bob O'Daniel, Amy Head, and Terra Lackey, family members of individuals participating in the ABI waiver program, spoke about the difficulties their family members have encountered receiving waiver services. The family members reported that they ran into numerous problems finding placements and trying to access the appropriate services. Among the problems encountered were inappropriate plans of care, confusing administrative regulations, inconsistent administration of the waivers, a lack of knowledge among case managers about the availability of ABI services, and a lack of clinical expertise among the case managers. Mary Hass of the Kentucky Brain Injury Association suggested the formation of an Acquired Brain Injury Department, not within the Department for Medicaid Services, to bring together all ABI services under one umbrella. There is a new waiver in process with medical enhancements for ABI individuals. It was noted that the number of individuals with brain injuries is growing and that already scarce services will be in even greater demand with the increasing number of veterans returning with brain injuries. A motion to accept the report was made by Senator Pendleton, seconded by Senator Harper Angel, and accepted by voice vote.

Legislative Hearing on the FFY 2012-13 Temporary Assistance for Needy Families (TANF) Block Grant

A motion to accept the block grant was made by Senator Pendleton, seconded by Senator Buford, and accepted by voice vote.

Referred Administrative Regulations

The following regulations were referred to the committee for consideration: 201 KAR 9:091 – repeals 201 KAR 9:090, Physiotherapeutics' practice licenses no longer exist; 201 KAR 20:161 – establishes the procedures for the investigation and disposition of complaints received by the Kentucky Board of Nursing; 201 KAR 20:370 – establishes requirements and procedures for licensure by the Kentucky Board of Nursing; 201 KAR 22:045 – establishes continued competency requirements and procedures as a condition of license renewal by the Kentucky Board of Physical Therapy; 201 KAR 22:053 – establishes a code of ethical standards and standards of practice for physical therapists and physical therapist assistants; 900 KAR 5:020 & E – establishes the State Health Plan

for facilities and services; 908 KAR 3:060 – establishes the Means test for determining the ability to pay of the patient or person responsible for the patient for board, maintenance, and treatment at a facility operated or utilized by the Cabinet for Health and Family Services; 921 KAR 2:040 – establishes the procedures used to determine initial and continuing eligibility for assistance under Title IV-A of the Social Security Act, 42 U.S.C. 601-619, and federal regulations; and 921 KAR 3:090 & E – establishes requirements for the Simplified Assistance for the Elderly Program, a demonstration project administered by the Cabinet for Health and Family Services to improve access to the Supplemental Nutrition Assistance Program (SNAP) for elderly and disabled individuals. A motion to accept the referred administrative regulations was made by Senator Buford, seconded by Senator Pendleton, and accepted by voice vote. Eric Friedlander, Deputy Secretary, Cabinet for Health and Family Services, was present to answer questions about 900 KAR 5:020 & E.

Smoke Free Kentucky

Representative Susan Westrom stated that she planned to prefile legislation for the 2012 Regular Session relating to smoking in all public places and places of employment. In order to educate themselves and their constituents, she encouraged members to read the information about secondhand smoke at phillipmorrisusa.com web site. Secondhand smoke creates a safety issue in any enclosed space. Ordinances across the state are being enforced with very few problems. Smoke-free policies in the work place are no different than policies that regulate safety in the work place.

Dave Adkisson, President and CEO, Kentucky Chamber of Commerce, stated that while the Chamber is not typically supportive of policies that focus on a particular business or industry disproportionately, the body of evidence on smoking and its negative impact on public health and the economy are too significant to ignore. According to the Centers for Disease Control and Prevention (CDC), Kentucky is second in the country in the number of adult smokers with 24.8 percent. Kentucky is first in the nation in smoking prevalence among both middle and high school students. The business community now sees the effects of smoking on the workforce in terms of absenteeism and lost productivity, insurance premiums for Medicare, Medicaid, and public employees, and tax bills.

The CDC estimated smoking-attributable health expenditures to be more than \$1.7 billion annually

in Kentucky, and the smoking-attributable economic productivity loss in Kentucky at more than \$2.6 billion annually. Kentucky also ranks 48th among the states for workplace exposure to cigarette smoke. According to the Cabinet for Health and Family Services, in Kentucky 26.5 percent of pregnant women are smokers compared to 10.7 percent nationally. Reducing smoking prevalence by one percentage point could prevent 1,300 low birth weight babies and save \$21 million in direct medical costs in the first year.

A survey sent to Chamber members this past summer showed the 70 percent supported the provisions in the proposed legislation, 15 percent supported some form of a statewide smoking policy, and 9 percent said they opposed all forms of a statewide smoking policy. The attitude in Kentucky is changing toward smoking and the health effects can no longer be ignored.

In 2004, smokers enrolled in the public employee health insurance program had to pay a higher premium than non-smokers. In 2005 and 2009, the General Assembly increased the excise tax on cigarettes, increasing the tax from three cents per pack to sixty cents. Private companies now have the same right as state government to offer lower priced health plans to non-smokers and can offer non-smoking incentives without fear of litigation. In the 2010 Regular Session, the General Assembly passed legislation funding the Medicaid smoking cessation program.

John Johnstone, MD, Cardiology and Internal Medicine, stated that smoking causes a litany of life threatening diseases such as heart problems, cancer, emphysema, and upper respiratory disease. There is no safe level of smoke and the correct action to take is to ban smoking in public places. Approximately 74 percent of non-smoking Kentuckians are subjected to the long-term life threatening conditions by the 26 percent of Kentuckians who do smoke. According to the World Health Organization, E-cigarettes should be regulated by the United States Food and Drug Administration (FDA) or as a tobacco product. The product is imported from China, and there should be no exception to the rules. Smoking regulations would make a difference in mortality rates, disability rates, and the cost of health care.

A. Scott Lockard, Public Health Director, Clark County Health Department, and President of the Kentucky Public Health Association, stated that the goal of the Smoke Free Kentucky coalition is to protect every Kentuckian from the proven dangers of secondhand smoke. The coalition is

dedicated to passing as many smoke-free laws as possible at the local level, and passing a comprehensive, statewide law to ensure that all workers and patrons across the state are not subjected to secondhand smoke. Currently, there are 31 communities that have passed laws that at least provide some level of protection from secondhand smoke in the workplace. Local communities have found that smoke-free regulations and laws are very popular, well received, and easily enforced. The Kentucky Public Health Association which is comprised of public health professionals across the state and the Kentucky Health Department Association which represents the state's public health departments both strongly support the legislation. Exposure to secondhand tobacco smoke is a major public health problem in the Commonwealth and the solution is simple. Every Kentuckian has the right to breathe clean air.

Denny Nafus, Veteran of Vietnam war impacted by secondhand smoke, stated that he is not against anyone who wants to smoke, but he does not think innocent people should have to be exposed to it. When he was in the service, he received a package from the military that contained a Bible, toothbrush, toothpaste, and cigarettes. Veterans from the Vietnam and Gulf wars cannot be around secondhand smoke due to exposure to Agent Orange in Vietnam and burning oil fields in Afghanistan. Kentucky leads the nation in smoking related deaths and needs to set an example by passing comprehensive smoking legislation that will prevent secondhand smoke in public places. There needs to be legislation that would protect all employees from the effects of secondhand smoke no matter where they work. Veterans have a high incidence of smoking prevalence, and we need to provide better health care services for them.

Representative Burch stated that businesses usually are not affected negatively by enforcing smoke-free regulations. Since tobacco farmers export tobacco to other countries, smoke-free regulations would not affect them as bad financially today as it would have in the past.

Senator Denton stated that every Kentuckian has the right to clean air, and this is a public policy issue that needs to be addressed.

Impact Plus Procedural Concerns

Mark Hamm, M.Ed., NCC, LPCC, CEO, Phoenix Preferred Care, stated that part-time services are not in the best interest of the children. Phoenix Preferred Care is a small Impact Plus provider who provides behavioral health services. In September 2010, 907 KAR 3:030 was promulgated

that incorporated the new Impact Plus user's manual. Impact Plus is a collaborative community-based model and the process should involve the providers and recipients to determine best practices. However, neither the providers nor recipients were involved in the process of updating the new Impact Plus user's manual. There were some stipulations within the user's manual outside of the realm of 907 KAR 3:030, in particular caseload limitations for case managers. If the intent of the 15 caseload is quality, then the mechanisms for ensuring quality control are already in place. Impact Plus providers are audited annually by the cabinet that have the ability to place providers on probation, revoke contracts, and make a provider operate under a Corrective Action plan.

Gary Hill, Administrator and President, Lighthouse Counseling Services, stated that every client deserves to receive the best services available.

Jane Hill, Licensed Clinical Social Worker, Lighthouse Counseling Services, stated that the Impact Plus providers and recipients were not included in the process to update the user's manual, but have to follow its mandated policies of the contract. Caseloads were decreased from 25 to 15, and because agencies are paid per case by the Department for Medicaid Services for Impact Plus services, the department cannot pay case managers the same amount to serve 15 clients as it has for 25 clients. Therefore, the experienced case managers serving these clients will not remain in these positions due to the drastic reduction in their income caused by lower caseloads. The restriction will impede the quality of care.

Janet Messer, Lighthouse Counseling Services, stated that agencies had to sign a contract by June 30, 2010 and agree to abide by the mandates of the Impact Plus user's manual that would not be updated until September 2010. Guidelines established in the user's manual restrict services. The purpose of Impact Plus is intensive out-patient therapy to avoid out-of-home placement and foster care to avoid detention, hospitalization, or residential treatment. When there is an increased number of out-of-home placements and hospitalizations due to a lack of opportunity and time availability to serve clients through intensive out-patient services through Impact Plus, the cost to the state increases for foster care and hospitalizations. The fee for Impact Plus services has not changed since 2000, but the requirements have been changed.

In response to questions by Representative Westrom, Ms. Hill stated that changing the caseload

from 25 cases to 15 cases would affect the case managers financially. If children could not receive Impact Plus services, there would be a lot more hospitalizations, out-of-home placements, and detention.

In response to questions by Senator Denton, Ms. Hill stated that case managers are paid per member per month. Provider contracts are always renewed in June of each year. Providers were not included in the process and creation of the manual because there were only internal cabinet meetings. Lighthouse Counseling Services has experienced an 11 percent decrease in the number of clients served with the current number of case managers. Providers cannot stay competitive if the same wage is paid for 15 clients as 25 clients. Case managers do not provide treatment but make sure families have services that are needed and perform administrative tasks to continue to request continuation of services for the families. Case managers have to be social workers or in a social worker related field.

In-Home Primary Care

J. Michael Benfield, MD, CEO and President, MD2U, Louisville, stated that the MD2U was founded in July 2004 and its mission is to offer quality primary healthcare to the homebound and home limited and provide the most convenient, detailed and service-oriented medical care, thereby improving and revolutionizing the healthcare delivery system throughout communities nationwide. MD2U values and is committed to quality in-home medical care in a supportive, team-oriented environment. Over 180 house calls are made per day. Patients are homebound or have limited access to get out of the home. Services provided at home are medical and physical history, blood and urine testing, x-rays, ultrasound, echocardiogram, Doppler ultrasound, and end-of-life care. MD2U accepts Medicare and most insurance including Medicaid. There is no extra fee or charges for the service. MD2U helps decrease hospital readmissions and length of stay, trips to the emergency room, and medical transportation costs. It improves efficiencies in the primary care provider office and medication management. MD2U's objective are to 1) partner with the Commonwealth to expand healthcare access to Medicaid patients that need them the most; 2) identify the sickest patients that overutilize Medicaid resources by obtaining care in high cost settings such as the emergency room; and 3) establish cost savings-share program. The MD2U model for primary care in the home will help to significantly reduce overall costs of healthcare and result in increased patient satisfaction and clinical outcomes.

In response to a question by Representative Wuchner, Dr. Benfield stated that the company uses house call codes when billing insurance companies. While there company has some trending data, it would like to have more resources to track the data.

In response to questions by Representative Watkins, Dr. Benfield stated that nurse practitioners who have a collaborating physician, usually not physicians make the home visits. Approximately 150 patients are required to have a viable practice.

In response to questions by Representative Wuchner, Dr. Benfield stated that his company uses a billing system with different house call codes. MD2U like to have more resources to trends and outcomes of patients.

In response to questions by Representative Westrom, Dr. Benfield stated that MD2U has 75 employees. Laboratory work is outsourced to other entities. No preapproval is needed from the payor to see a patient at home.

In response to a question by Representative Burch, Dr. Benfield stated that MD2U bills the insurance company \$170 but only receives \$119.10 per patient.

In response to a question by Senator Harper Angel, Dr. Benfield stated that the company conducts background checks of employees and also relies on the licensing process for nurse practitioners who go into the homes. No background checks are done by the company on employees in laboratories for lab work outsourced. They rely on the background checks conducted by those entities.

In response to questions by Representative Waide, Dr. Benfield stated that he wants to know how to expand services in the Kentucky Medicaid Program. Physical therapy is not provided by MD2U.

In response to questions by Senator Denton, Mr. Latta, Chief Information Officer, MD2U, stated that MD2U is in the process of contracting with the new three managed care organizations (MCO). The biggest problem is getting the MCOs to understand the services MD2U can provide.

Sullivan University

Allen Rose, Vice President for Business and Government Relations, and Dr. Hieu Tran, Dean of the College of Pharmacy, Sullivan University, stated that in July 2008, the College of Pharmacy opened. In 2011 the Sullivan University College of Pharmacy (SUCOP) received full accreditation from the Accreditation Council for Pharmacy Education (ACPE) and the first class graduated. In Kentucky, between 1991 and 2004, the amount spent on personal health care rose 7.5 percent, hospital care 6 percent, and amount spent on physician and

clinical services 8 percent. In 2007 in Kentucky, one day of inpatient services costs an average of \$1,390.10 per patient an increase from \$910.57 in 1999. The average hospitalization stay ranges from \$7,000 to \$12,000. The SUCOP has pharmacists practicing at Jewish Hospital, Baptist East Hospital, the University of Louisville Hospital, Kosair Children's Hospital, and Floyd Memorial Hospital. While costs spent on medication increase, overall medical claim costs decreased because; patients with emergency department visits decreased from 9.9 percent to 1.3 percent; hospitalization visits decreased from 4.0 percent to 1.9 percent; direct costs savings averaged \$725 per patient per year; and indirect cost savings averaged \$1,230 per patient per year all because of the pharmacist intervention group. In 2009, the SUCOP established the International Center for Advanced Pharmacy Services (INCAPS) to provide medication therapy management for people enrolled in the Kentucky Retirement System. Within two months 417 patients were seen, and of those patients, there were 326 medication related problems. The most common issues were drug interactions and improper drug selection. The university supported the Louisville Metro Public Health and Wellness Department in their immunization efforts. SUCOP is part of the CDC grant from the School of Public Health. The SUCOP wants to be a part of the collaborative care in the Commonwealth.

Adjournment

There being no further business, a motion to adjourn at 3:27 p.m. was made by Representative Housman, seconded by Representative Wuchner, and approved by voice vote.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Subcommittee on Health Issues and Aging

Minutes of the 1st Meeting

of the 2011 Interim

October 19, 2011

Call to Order and Roll Call

The first meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 19, 2011, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 10:07 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Denise Harper Angel, Dennis Parrett, and Jack Westwood; Representatives Bob M. DeWeese, Ruth Ann Palumbo, David

Watkins, and Addia Wuchner.

Guests: Bob O'Daniel, family member, Lebanon; Amy and Marty Head; Terra Lackey, family member, Campbellsville; Mary Hass, Brain Injury Association of Kentucky; Neville Wise, Acting Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Murray Wood, Legislative Liaison, Cabinet for Health and Family Services; Jodi Mitchell, Kentucky Voices for Health; Nora and Don Putnam, and Berlinda Bazell, Parents and Relatives Organization for Oakwood Facility (PROOF); Greg Gwinnup, Medimmune; Steve Zaricki, Kentucky Association of Private Providers; Patty Dempsey, The Arc of Kentucky; Michael Hartlage, Kentuckiana Regional Planning and Development Agency; Ellen Kershaw, Alzheimer's Association; and Sarah Nicholson, Kentucky Hospital Association.

Guest Legislator: Representative Terry Mills.

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

Discussion of Medicaid Waiver Programs

Bob O'Daniel, Amy Head, and Terra Lackey, family members of individuals participating in the Acquired Brain Injury (ABI) waiver program, spoke about the difficulties their family members have encountered receiving waiver services. The family members reported that they ran into numerous problems finding placements and trying to access the appropriate services. Among the problems encountered were inappropriate plans of care, confusing administrative regulations, inconsistent administration of the waivers, a lack of knowledge among case managers about the availability of ABI services, and a lack of clinical expertise among the case managers.

Mary Hass of the Kentucky Brain Injury Association suggested the formation of an Acquired Brain Injury Department, not within the Department for Medicaid Services but instead in the Department for Aging and Independent Living, to bring together all ABI services under one umbrella. There is a new waiver in the process with medical enhancements for ABI individuals.

It was noted that the number of individuals with brain injuries is growing and that already scarce services will be in even greater demand with the increasing number of veterans returning with brain injuries.

In response to questions by Senator Denton, Ms. Lackey stated that when her husband was first injured, social workers were not

very helpful and most did not know about the ABI Program. Because her husband has been in the hospital for the past seven months, he lost his level of care in the waiver program and the process to receive services would have to start all over. He has to remain in the hospital because there is nowhere to place him right now. It is challenging to find appropriate placement because there are not a lot of providers, low rates of reimbursement for appropriate services, and the need for appropriate supervisory care.

Representative Wuchner stated that it is a challenge for family members and caregivers, and there needs to be a closer look at standards of care for ABI patients.

In response to a question by Senator Harper Angel, Representative Mills stated that the Golden Alert was not issued on behalf of Larry Lee after he wandered away from his personal care home. In response to questions by Senator Harper Angel, Ms. Hass stated that the Department for Aging and Independent Living has the expertise to oversee the ABI Program and the ABI Trust Fund. In November 2007, the Department for Medicaid services developed and submitted a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) that would provide services for individuals with disabilities through a pilot self-directed option (SDO). The pilot was planned to serve 200 individuals in various parts of the state who are eligible for home and community-based services (HCBS), acquired brain injury (ABI) and supports for community living (SCL) waiver services. Through SDO, individuals would create a highly personal budget and service plan specifically designed to meet their unique health needs. The demonstration was predicated on increasing safety and health by making effective use of committed long-term relationships and community connections to provide flexible and affective individually designed support services. The department was involved in discussions with CMS about the parameters of the self directed option. The response to the Request for Additional Information (RAI) to the Self-Directed Options (SDO) State Plan Amendment was submitted to CMS early in December 2007. Ms. Hass stated that she did not know the status of the self-directed option pilot program.

In response to a question by Senator Parrett, Ms. Hass stated that proposed suggestions for personal care home (PCH) legislation reforms would be: conduct assessments on every individual before placement in a PCH to determine appropriateness and an additional assessment every six months for continued stay at the PCH;

create a PCH tiered system designed to meet specific behaviors, not diagnoses; provide training for PCH staff; require PCHs to have a full-time dedicated activities coordinator; build quality measures by requiring specific positions within a PCH setting such as a case manager or social worker, LPN, and activities director; mandate that PCHs be required to have a survey book containing the past two years of surveys from the Office of Inspector General (OIG) available upon request by consumers; require a \$6 annual bed fee; require background checks on every employee hired by the PCH; submit a state plan amendment to provide wrap-around supports for individuals living in PCHs; develop sufficient supported housing to enable individuals unnecessarily confined to PCHs to receive services in the most integrated setting appropriate to their needs; realign funds away from institutional PCHs to prioritize integrated, community settings; ensure quality management systems are sufficient to assure that all mental health and disability services funded by the state are of good quality and sufficient to help individuals achieve positive outcomes, including increased integration, independence, and self determination; and implement an effective plan to transition people with mental illness and disabilities unnecessarily institutionalized in a PCH to supported housing.

In response to questions by Representative Watkins, Ms. Lackey stated that there are 12 certified ABI beds in the facility that she owns. Ms. Hass stated that there are 200 slots each in the two waivers, and there is always a waiting list. The new waiver would have up to 35 slots.

Senator Denton said that she has two children with brain injuries, and people do not always understand the problems of individuals who have brain injuries, especially if they seem normal.

In response to questions by Senator Westwood, Acting Commissioner Wise stated that cabinet would conduct an educational campaign to make sure social workers are aware of the ABI waiver services. The new managed care organizations will refer individuals quicker, because it is in their best interest that individuals receive the appropriate care as quickly as possible in order to save money.

Don Putnam and Berlinda Bazell, Parents and Relatives Organization for Oakwood Facility (PROOF), stated that the organization has concerns and recommendations about the proposed Medicaid 1915(c) Home and Community Based Waiver. PROOF supports the inclusion of certifiably independent, properly educated, reasonably experienced, adequately

compensated, closely supervised case managers servicing a limited case load; a choice of alternatives including both the ICF/MR level of care and community based waiver services; the intensity scale (SIS) assessment tool; and ensuring the health and safety of individuals receiving state services. PROOF recommends having adequate ICF/MR stakeholder public input involvement, adding additional waiver text to prohibit the combining of disabled groups in any residential setting, implementation of a more comprehensive abuse registry, ensuring the involvement of the guardian or legal representative in all meetings and decisions, and including both the case manager and the guardian or legal representative if applicable, in the reporting requirements of critical events or incidents, and a report must be completed within three hours.

In response to a question by Senator Denton, Acting Commissioner Wise stated that families are involved in monthly meetings, but he would have to consult with other departments within the cabinet to address PROOF's other concerns.

Adjournment

There being no further business, a motion was made to adjourn at 12:08 p.m.

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

Minutes of the 4th Meeting
of the 2011 Interim
October 20, 2011

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 20, 2011, at 9:30 AM, in the Rolex Stadium Hospitality Room at the Kentucky Horse Park. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Jared Carpenter, Denise Harper Angel, Ernie Harris, and Kathy W. Stein; Representatives C. B. Embry Jr., Richard Henderson, Wade Hurt, Thomas Kerr, Terry Mills, Michael J. Nemes, and Brent Yonts.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Cheryl Norton, President, Kentucky American Water; Matt Sawyers, Deputy Secretary, Tourism, Arts and Heritage Cabinet; Hank Phillips, Deputy Commissioner, Department of Travel and Tourism;

William Graeper, Certified Languages International; Terena Bell, Chief Executive Officer, In Every Language; Dwight Lovan, Commissioner, Department of Workers' Claims; and Melissa Beasley, Deputy Director, Division of Unemployment Insurance LRC Staff: Adanna Hydes, Carla Montgomery, and Betsy Nickens.

Kentucky Horse Park

John Nicholson, executive director of the Kentucky Horse Park, updated members on the success of the park one year after the Alltech FEI World Equestrian Games (WEG). Based on an economic impact study commissioned by the Tourism, Arts and Humanities Cabinet, the games brought \$201.5 million to the state including \$45 million in wages, \$18.4 million in state taxes, and \$4.5 million in local taxes. In addition to the 70 national shows already held at the park annually, the state's investment in the park has resulted in 14 new equine events, twelve of which are annual events including the Alltech National Horse Show, which is the oldest and most prestigious horse show in America and was formerly held at Madison Square Garden. The economic impact of these new events is estimated at \$44.2 million. He noted that the cabinet is also currently conducting an economic impact study of the Horse Park.

Referencing *Chronicle of the Horse*, Mr. Nicholson quoted the equestrian sport publication's statements about the legacy the WEG left for United States horse sports. The park updates resulted in it being the "go to" location for national championships and other major equine events including the Junior Rider Championships and the National Horse Show. The benefits for the industry and the state will be measured for years to come.

Mr. Nicholson noted the park's museum will feature an exhibit produced by the American Museum of Natural History, titled *The Horse*, and one of the park's educational programs, the Kentucky Horse Park Literacy Project.

Representative McKee thanked Mr. Nicholson for his efforts in promoting the park and his work during the games.

Representative Edmonds commented that an associate from Deville, France said the Horse Park is now the finest equine facility in the world.

Responding to Representative Carney's question, Mr. Nicholson said that each equine event participating at the park makes provisions for veterinary services per park requirements, and that there are top veterinary hospitals near the park.

Department of Travel and

Tourism

Matt Sawyers, Deputy Secretary, Tourism Arts and Heritage Cabinet, noted the success of the World Equestrian Games and the dedication of Horse Park staff as well as the Department of Travel and Tourism.

Hank Phillips, Deputy Commissioner, Department of Travel and Tourism, outlined the agency's mission to promote travel to and within the Commonwealth. The vision is to enable the traveling public to understand and feel the uniqueness of Kentucky. In 2010, tourism resulted in an \$11.4 billion economic impact—\$2.5 billion in payroll and \$1.2 billion in local and state taxes, as well as 170,000 jobs. Mr. Phillips said the Southeast Tourism Society will announce that the department has been selected as the southeast state travel office of the year. Key to this award was "The Kentucky Experience" exposition at the WEG. The exposition was later moved to the Kentucky History Center and then to the state fair. Next year it will be a part of the *Travel South* conference in Louisville.

Mr. Phillips outlined other promotional efforts, which include commercials, the Kentucky Visitors Guide, and the award winning website launched in 2010. Upcoming events include the Civil War Heritage Trails Program, which is part of the Civil War Sesquicentennial; the Bill Monroe Centennial, the Kentucky Inaugural Sprint Cup Race, and the Senior PGA Championship.

Mr. Phillips explained the development of the new marketing campaign, "There's Only One Kentucky," which came about through the use of focus groups and input from tour companies. The campaign includes sites that are unique to the Commonwealth, such as "Horse Capital of the World," Mammoth Cave, and the National Quilt Museum.

Mr. Phillips said the use of "ten second spots" in television commercial production helped budget advertising funds. The commercials were produced by a Kentucky company. Radio advertisements will be released in the spring of 2012. Other advertisements include print and banner ads in the visitors guide as well as online and social media.

Responding to Representative Julie Adam's question, Mr. Phillips said \$1.3 million has been spent on advertising.

In response to Senator Stein's questions, Mr. Phillips said Miles Media, headquartered in Florida, published the 2011 Visitor's Guide. It was selected through the state procurement process. Advertisements that are affiliated with the Tourism Cabinet are purchased by outside entities. The guide is published at no

cost to the state—revenue is derived through advertisements. If income exceeds a certain percentage, the state receives dividends, although that has not occurred since contracting with Miles two years ago.

Kentucky American Water

Cheryl Norton, President of Kentucky American Water (KAW), discussed what the company and its parent company, American Water, can do to help economic development in the area. Ms. Norton gave an overview of the company and its history. KAW, with approximately 150 employees, provides water and waste water services to approximately 500,000 people in portions of 10 counties by producing 86 million gallons of water daily. During the World Equestrian Games, KAW saw its maximum usage with high temperatures being a contributing factor to increased demand. Ms. Norton said maintaining a substantial water supply has been an issue over the past 20 years. In 2008, KAW and the Public Service Commission agreed the best solution was a new 20 million gallon treatment plant and distribution system in Owen County. The facility was completed in 2010. Over 200 people were employed during construction. The project contributed more than \$1.1 million in new property and real estate tax revenue in the four counties involved, and the revenue supplied needed school funding during a period of cutbacks. Ms. Norton listed several of KAW's community project involvements. She noted how important having a sufficient water supply is to economic development, pointing out this was a major consideration when Toyota Manufacturing came to Kentucky.

Responding to Senator Stein's questions, Ms. Norton said Fayette Urban County Government pays \$38 per month per fire hydrant in maintenance fees. With the addition of the new plant, community growth is sustainable for the next 15 to 20 years. Ms. Norton said usage per customer has declined in recent years due to the economy and other issues such as rainfall and more efficient homes.

In response to Representative Hall's question about new Environmental Protection Agency (EPA) regulations of storm water systems and other utilities, Ms. Norton said the new EPA regulations, costing millions, are challenging and costly to communities and customers. Many of the regulations are not based on scientific evidence. She said it is important to address these issues in a logical manner.

Responding to Representative Palumbo's question, Ms. Norton explained that KAW's limit of 17 or fewer notifications is self-imposed. She said as EPA regulations get

more difficult to meet, it is more of a challenge to avoid getting notices of violation.

Independent Contractor Issues for Interpreters and Translators

Mr. William Graeper, Certified Languages International, travels in sponsorship of legislation that will classify interpreters and translators as independent contractors as opposed to employees of language service agencies. He stated in 2001 his language services company was audited by its insurance company, resulting in the company's interpreters being classified as employees. He considers interpreters to be independent contractors and not employees. Certified Languages International fought the decision and won. Mr. Graeper sponsored legislation in Oregon exempting interpreters and translators who are performing work under language service agencies from unemployment insurance taxes and workers' compensation taxes. His intent was to present the issue in a broad fashion before it comes to the committee as legislation in 2012. He has worked for the past ten years in sponsoring legislation regarding this issue, which has passed in Oregon, New York, and state of Washington.

Interpreters and translators are highly skilled workers. There are 7,000 individuals who are members of the American Translation Association. Most of those members are independent contractors and want to remain that way. These individuals are used by multiple language service agencies and not doing the work of the language service company itself, but of interpreting and translating for the various entities that hire them.

In response to questions from Senator Harris, Ms. Bell, Chief Executive Officer of In Every Language, a Louisville based company, stated that there are nine language service agencies in Kentucky. In Every Language provides services nationwide. There are 2,500 companies that provide translation and interpretation services in the United States. The translators and interpreters could be placed by multiple companies in order to maintain their work load.

In response to a question from Representative Nemes, Mr. Graeper explained how language services are constantly battling the issue of whether interpreters and translators are independent contractors or employees. More enforcement actions are taking place among the individual companies nationwide, but it is ultimately a strain on time and resources to fight each individual case. Therefore, Mr. Graeper feels that it is better to approach the subject on the legislative level.

Ms. Bell stated that the language service industry is a \$31 billion market globally. In the United

States, companies spend \$17 billion annually on language services. With 2,500 language service companies in the nation, only nine are located in Kentucky. She said it is tempting to move her business to another state because Kentucky has not taken a stand for the industry.

Senator Kerr advised the committee that a summary of employee misclassification in the construction sector is available in the members' meeting folders from the Kentucky State Building and Construction Trades Council.

Senator Kerr introduced Commissioner Dwight Lovan and Deputy Director Melissa Beasley, who were present to answer questions regarding independent contractors as it relates to workers' compensation insurance and unemployment insurance. Commissioner Lovan explained that whether a worker is an independent contractor is determined through case law. In the Kentucky Workers' Compensation Act, there is no definition of independent contractor nor is there any reference to such. An independent contractor is not an employee; therefore, workers' compensation does not apply. The four predominate factors to determine whether a worker is an independent contractor are as follows: the nature of the work in relationship to the employer's business; the extent of the employer's right to control the work activity; the professionalism and unique skill of the worker; and the true intent of the parties. The exemptions in the Kentucky Workers' Compensation Act are in KRS 342.650 and an employee is defined in KRS 342.640.

In response to questions from Senator Harris, Commissioner Lovan said generally, a subcontractor who owns his or her own business and does business for different people would be viewed as an independent contractor. Commissioner Lovan said he could only find one citation two years ago for a translation business, and the fine was minimal. He did not know if it was in regard to in-house employees or agency interpreters.

In response to questions from Senator Kerr, Ms. Bell clarified that she had been fined by the Department of Workers' Claims. She said the company paid the fine instead of contesting the citation.

Senator Kerr announced that the committee will meet on November 17, 2011 in Frankfort.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 5th Meeting

of the 2011 Interim
October 14, 2011

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 14, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Dan "Malano" Seum, Kathy W. Stein, Damon Thayer, and Robin L. Webb; Representatives Tom Burch, David Floyd, Dennis Horlander, Wade Hurt, Reginald Meeks, Charles Miller, Michael J. Nemes, Darryl T. Owens, Ruth Ann Palumbo, Carl Rollins II, Arnold Simpson, and Susan Westrom.

Guests: Van Ingram, Executive Director, Kentucky Office of Drug Control Policy; Mary R. Begley, Inspector General, Cabinet for Health & Family Services; Tom Martin, Lexington Area Music Alliance; William Swope, Jr., State Fire Marshal; Sergeant Clayton Roberts, Lexington Fayette Urban County Police Department, Assistant Chief David Mattingly, Lexington Fayette Urban County Fire Department; Vito Casullo, III and Jennifer Jean Casullo, Vito's Fireworks.

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

Licensing of Pain Control Clinics

Van Ingram, Executive Director of the Kentucky Office of Drug Control Policy, said prescription drug abuse in Kentucky is a significant problem. According to the Substance Abuse and Mental Health Services Administration (SAMHSA) survey, approximately 6.5 percent of Kentuckians have used prescription drugs non-medically in the past year. The demographic shows that 16.1 percent of 18 to 25 year olds have used prescription drugs for non-medical purposes. Kentucky is number three in the nation with 8 percent of Kentuckians using Xanax or Valium non-medically; the average is 6.4 percent nationally.

In even-numbered years, Kentucky has a Kentucky Incentives Prevention (KIP) survey with eighth, tenth, and twelfth grade students, to understand their attitudes toward drug use. Due to public education and schools increasing awareness about the risks of prescription drug abuse, numbers of students using prescription drugs for non-medical purposes has gone down from 3.1 percent to 2.4 percent. While there have been

decreases state-wide in non-medical prescription drug use, there are areas where there have been increases in drug use among high school Sophomores. In eastern Kentucky where drug use is more widely known the percentage is trending down. This is attributed to work done with Operation UNITE and other anti-drug coalitions in eastern Kentucky. Oxycontin use by tenth graders is continuing to trend down; however, in the Barren River and Kentuckiana areas, the numbers are increasing.

One of the most significant issues to be resolved is the rise in deaths from drug overdose. In 2010, according to the Kentucky Medical Examiners report, there were 674 overdose deaths in the Commonwealth, of which 546 were ruled accidental overdose. Multiple drug toxicity, typically mixing Xanax and Oxycodone in combination with alcohol and marijuana, is often found in the blood stream of overdose victims. Hospitalizations and emergency room visits due to drug overdoses have also been on the rise since 2008.

The Kentucky All Schedule Prescription Electronic Reporting (KASPER), a prescription monitoring program, is one of the most effective tools the General Assembly has provided. It was not designed to prevent prescribers from doing their job, or to reduce the amount of prescriptions written. Instead, the system was developed as a means of identifying opiate addiction in patients. Law enforcement is able to identify people diverting drugs as well as drugs being over-prescribed. Ninety-three percent of reports run are by prescribers, with only four percent run by law enforcement. Fears of privacy abuse have not been founded. In 2005, the system was updated to "enhanced" eKASPER, giving reports in real time. Prescriptions are entered into the system every 24 hours. The most prescribed drug in the system is Hydrocodone. There is a large disparity between the number and location of doctors writing prescriptions for controlled substances and the patients using controlled substance prescriptions. Most prescriptions are written in Louisville, central Kentucky, and northern Kentucky. Most of the patients filling those prescriptions live in southeastern and eastern Kentucky.

When the General Assembly addressed the problem of internet pharmacies in 2007, a large number of pain clinics opened in Florida, and large numbers of people started traveling from Kentucky to that state. In 2008, 12.6 million oxycodone pills were dispensed from three south Florida counties. In 2010, more oxycodone was dispensed in Florida than in all other states combined. In 2009 Florida passed the Prescription

Monitoring Plan (PMP) and through efforts from the Florida Office of Drug Policy, they have obtained funds to have the program operational in the near future. This past year Florida put in place tighter restrictions on who can own and operate a pain clinic there. This has caused a reduction in prescriptions written for oxycodone and pain clinics are closing.

Strategies for controlling pain clinics and prescription abuse that have worked for other states include requiring prescription monitoring accounts for all prescribers. Of the 8,000 prescribers in Kentucky, approximately 23 percent have a KASPER account. Additionally, pain clinics should be defined by statute and licensed so the state knows who and where they are. There should also be a certain level of expertise required to operate a pain clinic, with required continuing education in the field. Regulations should require that pain clinics be physician-owned by a board certified physician. Additionally, if a physician has had a license suspended or revoked for abuse in another state, the physician should be denied a license to operate a pain clinic in Kentucky.

The University of Kentucky, College of Pharmacy, has performed a study on the KASPER system to recommend making the program better. Recommendations included having all pharmacies report data within 24 hours, require all controlled substance prescribers to have a KASPER account, and change language in statutes to allow KASPER to send a letter to prescribers when a patient has been identified as using multiple physicians for the same drug, allowing physicians to change their treatment plan for that patient. Governor Beshear created the Prescription Advisory Council to recommend guidelines to determine irregular prescribing habits through KASPER. These guidelines will better enable KASPER administrators to identify unusual prescribing habits and report them to the KBML or the appropriate medical licensure board for review.

In response to a question from Representative Floyd, Mr. Ingram said his office fully supported legislation that was introduced in the 2011 session, adding that physician owned pain clinics reduce the ability for prescription abuse. In response to a question from Senator Schickel, Mr. Ingram responded there are two possibilities to regulate prescription drug abuse: license and regulate pain clinics through the Board of Medical Licensure, or allow the Cabinet for Health and Family Services to write Administrative Regulations to deal solely with pain management

clinics. Senator Higdon commended Mr. Ingram on his work and told the committee that he has pre-filed a bill for the 2012 Regular Session.

In response to a question from Senator Stein, Mr. Ingram said there is a threshold that drugs must meet in order to show on a KASPER report. He added that the cost benefit ratio for the purchase of pseudoephedrine versus buying methamphetamine would prohibit pseudoephedrine from entering the market in illegitimate ways. Senator Buford commented that any new legislation should require any physician with a DEA license to register with KASPER. Mr. Ingram responded that pharmacy's report to KASPER adding that it was doubtful a physician looks at KASPER reports before prescribing to a patient. In response to a question from Representative Westrom, Mr. Ingram said Senator Hal Rogers is working with VA Hospitals to require them to report to the states' prescription monitoring program. In response to a question from Senator Seum, Mr. Ingram said that ideally, if a pain clinic is not owned by a physician, it should be owned by a hospital, hospice, or other health-related entity. A group of general investors would be prohibited from owning a pain management clinic.

Mary R. Begley, Inspector General, Cabinet for Health and Family Services told the committee that KASPER provides valuable information to prescribers, dispensers, the judiciary system, and law enforcement. There is great concern about the abuse of controlled substances. There are individuals in the Commonwealth that have legitimate pain who are entitled to and need a controlled substance to get by on a day-to-day basis, or during an acute episode. KASPER allows the cabinet to team up with the Kentucky Board of Medical Licensure (KBML) to share information when complaints are received. This has led to closing pain clinics that do not follow evidence-based practice relative to prescribing pain control medication or controlled substances, thus saving lives. Currently, the Office of Inspector General's licensure regulation for special health clinics, adopted in 1988, is the regulatory standard utilized for pain clinics.

The Office of Inspector General encourages citizens to report illegal pain clinics or what is perceived as being an illegal prescribing habit to the office of Inspector General or the KBML. Recently staff produced a reporting form that has been distributed to the Kentucky League of Cities in response to their concern about entrepreneurs coming into the state to set up a pain clinic, or a physician operating outside of his

practice. There is an on-line form, and a complaint can be registered anonymously. There is also a hot-line: 1-800-372-2973. When a community is struggling with a facility they can send complaints to the office for investigation and appropriate action. The office looks forward to working with the General Assembly as this issue moves forward.

House Bill 263, AN ACT relating to musical performances, 2011 RS

Representative Ruth Ann Palumbo told the committee that HB 263 was about jobs. The bill would have helped promote young, talented, musician entrepreneurs. The bill was about providing an opportunity for those who will be future teachers, doctors, and business professionals. It would have created entertainment destinations. Most local acts are only together during the time that they are in college, before the age of 21. The mix of young people is wide and varied and they need jobs.

Tom Martin, with the Lexington Area Music Alliance, told committee members that the legislation was about a segment of young people who are being stymied in the development of their profession. They need the opportunity to be exposed to as many aspects of operating a band in a working venue as possible. This is very similar to lessons learned in developing a small business. Participating in a band teaches development of a product, learning marketing, and interaction with the management of venues. Learning how to develop and maintain a fan base is critical to the experience. Developing and maintaining partnerships with venues is an important lesson learned during this experience. Bands are expected to deliver a quality product for which they may be paid. Finance and maintaining band equipment, which is expensive, is a lesson as well. Learning the inner dynamics of negotiations is a key part to a successful band. Discipline, being on time, and living up to obligations and promises made also come with the experience of being in a band.

The Lexington Area Music Alliance is an organization that represents the interests of anyone in the central Kentucky area with a stake in the performance or the production of live music. Currently, artists are being held back due to statutes that do not allow for someone under the age of 21 to be in a venue where alcohol is sold, unless it is a restaurant with sales revenue of at least fifty percent in food service. The experience of being on a live stage, in front of a sound system, lights and, more importantly, before an audience are valuable lessons.

In response to a question from Senator Higdon, Mr. Martin said, with some restrictions, changing the

age to 18 would ease the situation for musicians to perform in most venues. In response to a question from Senator Schickel, Mr. Martin said, speaking for Lexington, there are some restaurants that also provide live music but for the most part live music venues derive the majority of their revenue from alcohol sales. In response to a question from Senator Buford, Mr. Martin said there could be a restriction added saying that the musician would be limited to a specific area and require the underage musician wear a bracelet for easy identification. Senator Stein commented that this legislation was about jobs and economic development and was especially needed in the new distillery district in Lexington. Representative Palumbo commented that all suggestions for the legislation were welcome. Senator Webb commented that an identifier was definitely necessary to protect proprietors, and should be required in statute. In response to a question from Representative Westrom, Mr. Martin said his group is working with the Office of Alcohol Beverage Control.

Update on House Bill 333, AN ACT relating to fireworks and making an appropriation therefor, 2011 RS

William Swope, Jr., State Fire Marshal, said there were significant changes to fireworks legislation in the 2011 Regular Session. Specifically, legislation changed when fireworks can be sold, and who is able to sell fireworks. The biggest change was in the types of fireworks that could be sold. Kentucky chose to allow the sale of all consumer fireworks. This saw an increase in the number of registrations to sell fireworks from approximately 400 vendors to 674 for the year. There is an anticipation that next year the number will decrease due to local governments enacting ordinances to reduce sales and use within their own jurisdiction. Some local governments are considering additional permits and fees to purchase and operate fireworks. There were no additional fireworks-related injuries or fires. However, local police received more loud noise or nuisance calls. The Department of Housing, Buildings, and Construction is drafting new administrative regulations regarding "display operators," or those who perform professional shows.

Sergeant Clayton Roberts, Lexington Fayette Urban County Police Department, said that nuisance calls during the two-week period around the Fourth of July were up from 200 last year to 700 calls this year.

Assistant Chief David Mattingly, Lexington Fayette Urban County Fire Department, said there was not a significant increase in fires this year. This year had been good for

rainfall; however, in the future, in a drought year, there could potentially be problems with grass or mulch fires. Typically, injuries are minor and do not require medical assistance. Therefore, there is little record of increased injuries. There was an increase in seasonal sellers.

In response to a question from Representative Keene, Fire Marshal Swope said his office has not recorded any type of revenue increase. Jennifer Jean Casullo stated that her business has paid approximately \$6,000 in sales tax, up \$2,000 from last year. In response to a question from Representative Palumbo, Sergeant Roberts said the law, as written, prohibits setting off fireworks within 200 feet of a house or car.

Vito Casullo, III, Vito's Fireworks, said business has picked up this year due to people who previously went to Indiana to purchase fireworks, but who are now buying their artillery shells and larger fireworks in Kentucky. Customers were given information regarding the new statute with each sale. Also, instruction on how to safely use larger fireworks was provided.

Representative Keene announced that the next committee meeting was November 2, 2011, due to the regular meeting day being on Veterans Day. There being no further business to come before the committee, the meeting was adjourned at 11:08 a.m.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 6th Meeting of the 2011 Interim November 2, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Licensing and Occupations was held on Wednesday, November 2, 2011, 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 Dennis Keene, Co-Chair; Senators Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Dan "Malano" Seum, Kathy W. Stein, and Damon Thayer; Representatives Tom Burch, Larry Clark, David Floyd, Dennis Horlander, Wade Hurt, Joni L. Jenkins, Adam Koenig, Reginald Meeks, Charles Miller, Michael J. Nemes, David Osborne, Darryl T. Owens, Carl Rollins II, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: Representative Ron Crimm, and Colonel Steve Bullard, Kentucky Air National Guard; Dan Fay, Commonwealth Hotels and Jim

MacFarlane, Kentucky Restaurant Association, Northern Kentucky Chapter.

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

Approval of minutes

A motion was made by Representative Keene, seconded by Senator Buford and the minutes from the October 14, 2011 meeting were approved by voice vote.

BR 120, AN ACT relating to qualifications for military service

Representative Ron Crimm, sponsor of BR 120, told committee members that the bill was not aimed at harming the tattoo industry. Rather, the military has requirements restricting tattoos on the neck, the forearm or the bottom of the leg from the knee down. Also, tattoos considered sexual in nature, or containing graphic or offensive content are not permitted. Individuals considering a military career need to be aware of these requirements. The bill requires each tattoo facility to conspicuously display, in a prominent place easily seen by patrons, a printed sign that: (a) is at least eleven inches by fourteen inches in size, with letters at least one inch high; (b) is supplied by the Cabinet for Health and Family Services; and (c) warns that any tattoo on the neck, forearm, or lower leg shall automatically disqualify the wearer from military service in the United States Armed Forces.

Colonel Steve Bullard, Kentucky Air National Guard, told committee members that each branch of service has some leeway in determining where tattoos are permitted or not permitted. Basically the head area is generally prohibited. The Army does allow some tattoos on the back of the neck. It is a judgment call for the recruiter in most cases. Language in the bill might be changed to say a tattoo may disqualify recruits and provide prospective soldiers with criteria for the branch to which they are applying.

In response to a question from Representative Clark, Representative Crimm said he learned of this issue from his son, who is a Master Sergeant in the Air Force, and is in charge of recruiting and retention in Kentucky. His son had a highly qualified recruit but because of a tattoo on the recruit's neck the recruit was prohibited from enlistment. In response to a question from Representative Burch, Colonel Bullard said if there should ever be a draft put in place, tattoos on the forehead or certain other places would be disqualifiers, unless rules were changed for the draft. Colonel Bullard added that he did not anticipate tattoo rules changing. Representative Crimm noted that the Navy had the strictest criteria, stating that certain content,

obscenity, sexual explicitness, and tattoos in the mouth are causes for disqualification.

BR 175, AN ACT relating to the sale of alcoholic beverages at restaurants

Senator Schickel, sponsor of BR 175, told committee members the restaurant industry's ability to purchase a liquor license was dependent on a restaurant's ratio of food sales to alcohol sales. The bill changes KRS 241.10, from "fifty percent of gross receipts," to, "fifty percent of food and beverage receipts." The restaurant and bar business has changed over the years and this bill is an attempt to update an out-dated law. The statute specifically states that fifty percent of gross receipts must be from food to qualify as a restaurant and obtain a liquor license. Some auditors are using sales from tee shirt and novelties to figure gross receipts for a business. BR 175 would clarify this to say that fifty percent of food and beverage receipts must come from the sale of food. This would exclude sales of non-food items from the calculation.

Dan Fay, of Commonwealth Hotels, Inc., said that Senator Schickel did a good job of describing the need to clarify the intent of the statute. Businesses have evolved into not only selling food but other items. Businesses like the Hard Rock Café and Jimmy Buffet's Margaritaville and Disney restaurants are tourist attractions as well as legitimate restaurants. However, a large portion of their sales is merchandise. Under the current interpretation of the statutes they could be in violation of the law. Also, private clubs who count dues as part of their revenue could be impacted. The accounting firms that work for the restaurant industry have standard charts of accounts they use to report revenue and expenses. These charts set food and beverage revenue apart from total revenue. The restaurant and hotel associations would like to change the statute to define fifty percent of food and beverage revenue to qualify for a liquor license instead of using total revenue.

Representative Keene commented that Senator Schickel has a legitimate concern and he was supportive of the legislation.

In response to a question from Representative Clark, Mr. Fay there will be an effect on insurance rates for businesses and that the Department of Alcoholic Beverage Control did not have any concerns at this time. In response to a question from Senator Seum, Mr. Lay said coffee, tea, and soft drinks are considered food items. In response to a question from Representative Koenig, Mr. Lay said the industry has a uniform system for reporting sales; however,

some businesses interpret the statutes differently.

Senator Higdon commented that the statutes are written to help restaurants sell alcohol. The problem comes when someone who wants to establish a bar tries to sell food to qualify for a restaurant liquor license. Mr. Lay commented that auditors check for other purchases as well as food and beverage sales.

There being no further business to come before the committee the meeting was adjourned at 10:23 AM.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 5th Meeting of the 2011 Interim

October 26, 2011

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 26, 2011, 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. Representative Cherry recognized in the audience Dr. William Fairbanks, a retired member of the anthropology faculty at Cuesta College, San Luis Obispo, California. Dr. Fairbanks, age 74, said he was in Kentucky in conjunction with an intermittent across-America walk that he began in 2009.

Present were:

Members: Representative Mike Cherry, Co-Chair; Senators Walter Blevins Jr., Jimmy Higdon, Alice Forgy Kerr, Gerald Neal, and John Schickel; Representatives Linda Belcher, Dwight Butler, Leslie Combs, Will Coursey, Joseph Fischer, Danny Ford, Derrick Graham, Mike Harmon, Melvin Henley, Martha Jane King, Jimmie Lee, Mary Lou Marzian, Brad Montell, Darryl Owens, Tanya Pullin, Tom Riner, Steven Rudy, Sal Santoro, John Will Stacy, Tommy Thompson, John Tilley, Tommy Turner, Jim Wayne, and Brent Yonts.

Guests: Arthur "Arch" Gleason, Howard Kline, and Sara Westerman - Kentucky Lottery Corporation (KLC); William Thielen and T. J. Carlson, Kentucky Retirement Systems (KRS); Robert "Beau" Barnes, Paul Yancey, and Kevin Carrico - Kentucky Teachers' Retirement System (KTRS); P. J. Kelly, Hewitt Ennis Knupp; Donna Early, Kentucky Judicial Form Retirement System; Stanley Kerrick, Lexington Investment Company, Inc.; and Mark Sipek, Kentucky Personnel Board.

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

Approval of Minutes

The minutes of the September 28 meeting were approved without objection, upon motion by Representative Owens.

Kentucky Lottery Corporation—Status Report

Present from KLC were Arthur "Arch" Gleason, President and CEO; Howard Kline, Senior Vice President of Finance and Administration and CFO; and Sara Westerman, Communications Specialist. Mr. Gleason discussed lottery sales, dividends history, distribution of proceeds to the Commonwealth, operating results, FY 2009-11 restructuring, cost-cutting measures, and future challenges for continuing growth. Following is a summary of his remarks and accompanying slide presentation.

Mr. Gleason explained that sales have been fairly level over the last several years, ranging from \$778.2 million in FY 2008 to \$772.3 million in FY 2011. Dividends have been stable the past five years, ranging from \$196.3 million in FY 2007 to \$212.3 million in FY 2011. Since the lottery's inception in 1989, as of September 2011, sales have totaled \$13.28 billion; \$8 billion has been paid in prizes; and total profit distribution to the Commonwealth was \$3.55 billion. From inception in 1989 through June 30, 2011, \$1.75 billion has gone into the General Fund, including \$214 million to the SEEK (Support Education Excellence in Kentucky) fund. By legislative direction in the 1998 regular session, disposition of lottery profits were gradually shifted to scholarship and grant programs. Since then, \$1.66 billion has been directed to grants and scholarships, with more than \$1.2 million going to individual Kentuckians pursuing education beyond high school. In the same period, approximately \$3 million per year has been distributed to literacy development programs, primarily early childhood. From FY 1999 to FY 2003, \$20.8 million was directed to the Affordable Housing Trust Fund, pursuant to legislation sponsored by Representative Wayne.

In FY 2012, the first \$3 million in proceeds will go toward literacy development. Unclaimed prize money, which is budgeted at \$9 million annually, will be directed to the KEES (Kentucky Educational Excellence Scholarships) Reserve Fund. The limit on proceeds to scholarship and grant programs in FY 2011 and FY 2012 is 78 percent of the unclaimed prize money, with 45 percent directed to KEES and 55 percent to CAP (College Access Program) and KTG (Kentucky Tuition Grants). The remaining 22 percent will stay in the General Fund, to be used for supporting restoration of higher education funds.

The 2008 enacted budget directed KLC to return a minimum of 28 percent of sales to the Commonwealth. That goal could not be reached in FY 2009, although profits increased by about \$12 million. In both FY 2010 and FY 2011, however, dividend transfers exceeded 28 percent. As a result of that legislation, KLC was required to make significant changes in operation of the lottery, and KLC is currently analyzing the impact of those changes in preparation for the 2012 legislative session. Restructuring and cost-cutting measures resulted in a reduction in instant ticket cash prizes by \$23.7 million for FY 2009, with free tickets being substituted for low tier prizes in scratch-off ticket prize structures. Liability limits were reduced for the Pick 3 and Pick 4 games. Total operating expenses (exclusive of \$7.7 million ticket costs) have been cut 25.8 percent during the last five years—down from \$37.3 million in FY 2008 to \$30 million for FY 2011, the lowest amount of operating expenses since FY 1991.

KLC reduced advertising expense by about \$2 million annually. This was a difficult decision because studies show that advertising can multiply sales nine to 12 times. The elimination of 28 positions (14.5 percent of the workforce) resulted in a \$1.6 million reduction in salaries, wages, and benefits expense in FY 2009. As of June 30, 2011, a total of 32 positions have been eliminated. Retailer incentive compensation was reduced by \$1.6 million. KLC has achieved other savings through the rebidding of instant and online gaming contracts.

Dividends distributed in FY 2009 totaled \$204.4 million; \$214 million in FY 2010, and \$212.3 million in FY 2011. Dividends are budgeted at \$219.8 million for FY 2012.

Mr. Gleason noted the top 10 universities and counties in Kentucky that have been recipients of scholarships and grants. He concluded his presentation by discussing future challenges which KLC faces—increasing instant ticket and online number game sales; the negative impact on disposable income caused by the current economic conditions and high unemployment rate; a maturing product mix and increased competition for gaming sales; uncertainty of Internet wagering; and potential changes in Kentucky law. He said the U. S. lottery industry (44 lotteries) last year grew overall by 2.1 percent, although some of the best lotteries are suffering a decline at present. Ohio will begin operating two of four planned land-based casinos in the northern part of the state in 2012 and is also considering implementation of “racinos.” Federal legislation that

has been proposed to control internet wagering could also potentially threaten the lottery industry.

Senator Higdon, a lottery retailer for more than 20 years, commended KLC for its helpfulness and cooperation with merchants and state legislators. Representative Cherry thanked the speakers for their presentation.

State-Administered Retirement Systems—Overview and Discussion (Kentucky Teachers’ Retirement System)

Representing KTRS were Robert “Beau” Barnes, Deputy Executive Secretary of Operations and General Counsel; Paul Yancey, Chief Investment Officer; Kevin Carrico, Director, Investment Management; and P. J. Kelly, KTRS’ investment consultant from Hewitt EnnisKnupp. Mr. Barnes explained the KTRS PowerPoint presentation, which focused on the actuarial status of the system as of June 30, 2010; schedule of funds available for retirement benefits and medical benefits for the 26 year period ending June 30, 2011; funding solutions resulting from passage of House Bill 540 in 2010; KTRS investment committee structure; changes in asset allocation for FYs 2000, 2004, 2007, and 2011; investment update for various time periods ending June 30, 2011; investment returns for FYs 2010 and 2011; and KTRS investment performance versus the universe of large public pension funds for the three year and five year periods ending June 30, 2011. Mr. Barnes said the presentation would illustrate the importance of having a pre-funded retirement benefit and the interplay of investment income with a pre-funded benefit. His review is summarized as follows.

As of June 30, 2010, the pre-funded retirement benefit fund was 61 percent funded, with assets of \$14,850,000. The medical benefit fund was 7.5 percent funded, with assets of \$241 million. House Bill 540, enacted in 2010, adopted a shared responsibility approach to paying for KTRS retiree health care and increased the amount which retired and active teachers, school districts, and other employers began contributing to the medical benefit fund as of July 2010. As a result, assets and percent of funding will grow dramatically in coming years, and the fund is now on an actuarially sound basis. The medical benefit fund, originally established as a “pay as you go” plan, is rapidly transitioning to a pre-funded plan. The KTRS actuary, Cavanaugh Macdonald, estimates that fund assets could reach \$1 billion in 10 years.

As of July 1, 1985, the retirement fund had a balance of \$1.8 billion. Investment income of \$16.3 billion was generated over the next 26

years, and \$16.4 billion was paid out in benefits. As of June 30, 2011, the ending fund balance had grown to \$15.2 billion. The beginning balance of the medical fund on July 1, 1985, was zero; in the 26 years that followed, there were member contributions of \$1 billion; employer contributions of \$1.6 billion; and investment income of \$200 million. Benefits paid out totaled \$2.5 billion, leaving an ending fund balance of \$300 million on June 30, 2011.

When Representative Cherry noted that the retirement benefit fund is only 61 percent funded, Mr. Barnes explained that KTRS would like to see it higher. He said the funding ratio reflects the depressed economy—which has affected most public pension plans and individuals—as well as maturing demographics. The good news is that there has been some recovery and good return on investments. Representative Henley commented that employee and employer contributions, combined with good investment return, could potentially raise the funding ratio of the retirement fund to 100 percent.

Mr. Carrico discussed changes in asset allocation. He said that significant changes have been made to the portfolio in response to the downturn in the financial and economic environment. As recently as June 30, 2004, there was no exposure to international stocks. In late 2004 a program was started to increase diversification and exposure to international stocks in a disciplined methodical way. As of June 30, 2011, about 15 percent of assets are in international stocks. The money for the increase essentially came from a reallocation from large cap U. S. stocks. The percentage of assets in fixed income has been gradually brought down from 33.9 percent in June 2000 to 25.6 percent in June 2011, and the expectation is to lower it further. There is also a downward trend in cash assets. The interest to be earned on cash balances is now essentially zero, so there is a strong incentive to keep cash assets as lean as possible. Real estate has traditionally been a small part of overall assets. As a result of the financial crisis and recession, there has been a downward revaluation in commercial real estate values, and commercial real estate is starting to be viewed again as an attractive asset class. Starting in 2006, commitments were made to alternative investments—private equity, venture capital funds and timberland—and returns are encouraging so far. Since 2009, KTRS has invested in a high yield bond fund, a distressed credit fund, and other strategies in the opportunistic credit asset class. It is expected to lessen exposure to traditional high quality bonds and to continue looking at opportunistic

credit investments.

Mr. Yancey reviewed the Quarterly Investment Update chart for all categories of investments (slide 15). He noted that for the period ending June 30, 2011, one-year investment return on assets valued at \$15.2 billion was 21.6 percent; 10-year investment return was 4.8 percent; and 20-year return was 7.7 percent. KTRS’ assumed actuarial rate of return is 7.5 percent. For FY 2010, return was 13.1 percent on assets valued at \$12.7 billion.

Mr. Kelly explained that KTRS has experienced above average investment return, with below-average risk, when compared with the large public fund universe (funds larger than \$1 billion in size) for the three years and five years preceding June 30, 2011 (slides 18 and 19). When Representative Cherry asked about the low 10-year annualized return (4.8 percent)—reported in recent news article to be the lowest among the 100 largest public pension funds—Mr. Kelly said his firm was hired a few years ago after publicity that KTRS had ranked relatively low compared to other pension plans over a 10-year period. He explained that KTRS did not rank well prior to 2007 because it did not take as much risk as other public pension plans. In 2008, however, KTRS ranked in the top 10-15 percent of public funds and has done a good job in taking advantage of opportunities and achieving higher returns without taking excessive risk. Responding to another question from Representative Cherry, Mr. Barnes confirmed that KTRS does not employ placement agents.

Representative Wayne noted that Representative Cherry’s reference was to an October 17 article by Timothy Pollard in the publication *Pensions and Investments*. He expressed concern about the previous bottom ranking but commended KTRS for the steps it has taken to improve performance.

Relative to House Bill 540, Representative Pullin said that compliments should go to the retired teachers for their understanding of the issue and their role in sharing responsibility. Mr. Barnes agreed and added that active teachers, school boards, and other employees—including the universities—were very supportive. Representative Henley said he thinks KTRS is on the right track, and he commended the Board and staff for doing a good job. Representative Graham added his commendation later in the meeting.

Responding to a question from Senator Higdon, Mr. Yancey explained that the investment labeled “Triple Net Lease Real Estate” refers to actual properties owned by KTRS.

When Senator Blevins asked about investments in Kentucky

companies and real estate, Mr. Carrico said there is a concerted effort to make significant in-state investments—which are also encouraged in statute. In-state investments are reported annually to the LRC for the preceding fiscal year. As of June 30, 2011, in-state investments totaled about \$330 million, about two or three percent—primarily in real estate, fixed income, as well as some alternative private equity and venture capital. Additionally, investments in out-of-state companies can have a positive economic impact in Kentucky.

Responding to an inquiry from Representative Thompson regarding the number of active and retired teachers, Mr. Barnes said he would get that information and forward it to the Committee.

When Representative Fischer questioned whether the actuarially assumed rate of return is realistic, Mr. Kelly said he believes it is realistic to earn 7.5 percent over the next 10 years. Interest rates are very low currently, and it would not be realistic to expect earnings of 7.5 percent by having a majority of the portfolio in fixed income. For that reason, it is a good time in a capital market for a long-term investor like a pension plan to invest in asset classes such as alternatives, private and international equities, and opportunistic credit. There were no further questions, and Representative Cherry thanked the speakers.

(Judicial Form Retirement System)

Guest speakers were Donna Early, Executive Director of the Judicial Form Retirement System, which administers both the Legislators Retirement Plan and the Judicial Retirement Plan; and Stanley Kerrick, President, Lexington Investment Company, Inc., investment consultant to the Board of Directors. They provided the Committee with copies of an October 20, 2011, letter from Mr. Kerrick to Ms. Early that includes a chart, Annualized Returns and Benchmark Comparisons, for both the Legislators Retirement Fund and the Judicial Retirement Fund; and copies of August 2011 and October 2011 Hilliard Lyons Trust Company newsletters.

Ms. Early said that there have been no major changes in the Judicial Form Retirement System's investment philosophy over the last several years. Mr. Kerrick said he is not the investment manager for the System. His role is to attend board meetings, provide a backup source of performance data to the investment manager, execute transactions that are decided upon by the investment manager, arrange for settlement with the custodian, and report the transactions to Ms. Early and the investment manager. The System has a very conservative approach to

investing that has been adopted not only by the investment manager but also by the Board over many years, so as not to take undue risk with the available funds.

After explaining the method for determining benchmarks, Mr. Kerrick reviewed investment return and benchmark comparisons for the two funds, summarized as follows. Benchmarks for total return have been exceeded in nearly every time frame. For the first quarter of FY 2012 the Judicial Retirement Fund had a negative total return of 8.15 percent and underperformed the benchmark by 1.32 percent. Total return for FY 2011 was 18.07 percent, outperforming the benchmark by .4 percent. The fund also outperformed the benchmark for the three, five, and 10 year periods ending June 30, 2011. The Legislators Retirement Fund had a total return of negative 8.91 percent for the first quarter of FY 2012, underperforming the benchmark by 1.41 percent. Total return outperformed the benchmark by .2 percent in FY 2011 and also outperformed the benchmark for the three, five, and 10 year periods by 1.74 percent, .77 percent, and 1.19 percent, respectively. Both funds invest primarily in equity. The judicial fund has about 66 percent of its assets in equity, all large cap companies, with federal home loan bonds being the principal component of the fixed income investments. The legislators fund has approximately 70 percent of assets devoted to equity, with the balance in fixed income. Composition is nearly identical to the judicial fund. When Representative Cherry inquired about the unfunded liability and overall health of the System, Ms. Early said that the judicial fund is 57 percent funded, and the legislators fund is 58.5 percent funded.

When asked by Senator Higdon, Ms. Early confirmed that funding of the legislators plan takes into account legislation enacted in 2005 to provide reciprocity between the Legislators' Retirement Plan and the other state-administered plans. Responding to Representative Thompson, she said that assets for the judicial and legislators funds are approximately \$200 million and \$50 million, respectively. Answering a question from Representative Fischer, Ms. Early said that the assumed actuarial rate of return is seven percent for both plans and has exceeded that over the past 20 years. When Senator Blevins asked what percent of assets is invested in Kentucky companies, Mr. Kerrick said there are no specific Kentucky investments on the equity side, although all are large cap major companies that most likely operate in Kentucky even if not domiciled here. On the fixed income side, one of

the funds actually owns a Kentucky liability bond that was issued in the summer of 2010 as part of the Build America program. This was a relatively small investment—perhaps about \$500,000—and from a direct investment standpoint is the only Kentucky position owned by either fund.

Representative Cherry said he has submitted a bill request for 2012 to rescind the 2005 reciprocity provisions [House Bill 299]. Senator Higdon said that he has filed 2012 legislation that would eliminate reciprocity for new legislators and place them in a defined contribution plan. He said he is also interested in addressing the reciprocity issue for current legislators. There were no further questions, and Representative Cherry thanked the speakers.

(Kentucky Retirement Systems)

Guest speakers from KRS were William Thielen, Interim Executive Director, and T. J. Carlson, Chief Investments Officer. In his opening remarks, Mr. Thielen noted that he has been asked to continue as Interim Executive Director throughout the 2012 legislative session. Mr. Carlson provided a pension fund investment update and discussed actuarial assumption rates, risk/return analysis, and asset allocation. Following is a summary of his remarks and slide presentation.

Total return for the pension fund for FY 2011 was 18.96 percent, or 1.38 percent below the benchmark. The underperformance was due mostly to a currency hedging program. As expected, the program has reduced volatility during the two years it has been in place, but it has also dampened returns. In November the Investment Committee will be reevaluating the program, in view of its cost and the potential drag on performance. The fund slightly underperformed for the three and five year periods ending June 30. Ten-year performance met the benchmark at 5.51 percent, which is equal to the median return within the universe of large public pension funds. For the period since inception of accounting records in 1984, total return was 9.72 percent, slightly below the long-term benchmark of 9.81 percent, but outperforming the current benchmark of 7.75 percent. KRS is making appropriate portfolio adjustments in order to attain 7.75 percent going forward.

Total equities return was 32.15 percent for FY 2011, slightly outperforming the benchmark; return was also slightly above the benchmark for the three, five, 10, and 27 year periods. As of June 30, total one-year fixed income return outperformed the benchmark by 1.13 percent—6.13

percent versus 5.0 percent. Fixed income slightly underperformed for the three, five, and 10 year periods but outperformed the benchmark for the period since inception by .14 percent. The real estate program was re-started in the 2008-2009 time period and, year to date, outperformed the benchmark by 6.38 percent. The funding target for real estate investments is five percent; currently about 2.5 percent of investments are in real estate. KRS owns its office buildings through a subcorporation and has two direct FHA loans; the remaining real estate investments are through funds managed by an outside party. Absolute return is a new asset class that is more a strategy differential than an asset class per se, because absolute return utilizes both stocks and bonds and other unique investment structures. These strategies are meant to have positive nominal returns in the portfolio, regardless of the direction of the stocks and bonds market, and represent one of KRS' program modifications in order to maintain the 7.75 expected rate of return, while reducing risk and volatility. The alternative program, primarily private equity, has been in place for about 11 years. KRS will be modifying alternative investments because they tend to have longer lock-up and investment cycles. The cash program outperformed the benchmark in FY 2011 by 32 basis points (.32 percent) and has earned almost five percent since inception. However, recent gain has been near zero, and recommended changes will be presented to the Board in November to help increase yield to the half-percent range.

As indicated in the scatter plot chart of five-year annualized total fund return as of June 30, 2011, KRS slightly outperformed its public pension fund peers. Comparison is to a broad range of funds but does not include all of the top 100 public pension plans. On a 10-year basis, KRS underperformed by about 18 basis points (5.51 percent versus the median 5.69 percent). The five and 10-year annualized return reflects a "much less risk" approach. As indicated in the chart, Actuarial Assumption Rates as of June 30, 2011, KRS' assumed rate of 7.75 percent ranks about in the middle compared to other public pension funds. KRS' real rate of assumed investment return—4.3 percent—ranks slightly below the public fund universe, reflecting a portfolio that is somewhat more conservatively aligned.

Answering a question from Representative Cherry about the difference between the real and assumed rates, Mr. Carlson explained that 7.75 percent is the nominal interest rate and consists of two components—real return and inflation. The assumed

rate of 7.75 is reached when inflation expectations in actuarial assumptions are added to the real assumed rate of 4.3 percent.

Relative to asset allocation, Mr. Carlson explained that the major difference compared to other similar size public funds is that KRS is slightly underweight in U. S. Equity. This is due to a February 2011 change by the Board to move 10 percent from public equities into an absolute return strategy. KRS manages assets on behalf of 10 different systems, or pockets of money—five pension plans and five insurance programs. Because of the funded status of the various plans, the asset allocations will probably diverge more over time than they have historically. This is in important in order to maintain liquidity and invest each fund appropriately. In May 2011, KRS adopted appropriate publicly available benchmarks for each asset class, which will enable the public to track performance versus the appropriate benchmark.

Mr. Carlson discussed in detail the charts listing the percentage of each asset class allocated to the KRS Pension and Insurance Funds. He pointed out that the major change in current Pension Fund allocations from their prior target is the move of 10 percent from public U. S. Equity to Absolute Return; the other differences reflect diversifications within asset classes. No major changes in asset allocation are expected, other than a possible increase in liquidity in February or May of 2012.

Concluding his presentation, Mr. Carlson said that, as he recalls, the last calculation of in-state Kentucky investments was done in 2009 and at that time about 1.5 percent of assets were tied in a major way to Kentucky. He said that in-state investing is of interest nationwide and that he is currently working on this issue with CIOs in North Carolina and Florida. KRS also recently hired River Road, a Kentucky-based asset manager, and has had preliminary discussions with a couple of other potential in-state asset managers and a real estate manager who invests in Kentucky. KRS would like to increase investments in Kentucky if it can be done in a fiduciary-appropriate manner.

Representative Cherry advised the Committee that legislation is in the process of being drafted—with input from the KRS Board, the state Auditor, and all concerned—to address issues such as the use of placement officers and the recommendations included in the state audit report released in June 2011.

Responding to a question from Representative Cherry, Mr. Thielen said he does not yet have the figures for FY 2011 but that as of June 30,

2010, the unfunded liability was \$18.4 billion. The asset base as of June 30, 2011, is \$14.5 billion. The “problem plan” is KERS-nonhazardous, which was 38.2 percent funded at the end of FY 2010; however, based on market value it was only 31 percent funded.

Representative Wayne asked whether it is accurate to say that in FY 2011 underperformance from the benchmark was \$250 million—or \$400 million when basing the benchmark on the 21.61 percent median return of peers. Mr. Carlson explained that he had not calculated the dollar figure of the underperformance but that \$200 million would sound right. He said the currency insurance program that has been in place for two years, while reducing volatility, has also reduced return of the total program. Without the currency hedging in place, return would have reached the benchmark 20.3 percent. There were gains of over \$100 million due to that program when the U. S. dollar rallied, but now that the dollar has weakened, those gains have eroded, and the Investment Committee will reevaluate the program in November.

Representative Wayne asked about the decline of alternatives in the current fiscal year and said it is his understanding that many of the investments in alternatives involved placement agents. Mr. Carlson said that most of the investments made through placement agents are outperforming their vintage year counterpart. This will also be reviewed in November, as will the private equity portfolio. There were factors which unfairly penalized performance with regard to private equities in the short term, but the biggest detractor was KERS, which has a large allocation to private equities. (Mr. Carlson followed with a technical explanation on this topic.)

Representative Wayne thanked Mr. Thielen and Mr. Carlson for their good work. He also asked whether it is anticipated that the General Assembly will need to increase the scheduled employer contributions set out in House Bill 1. Mr. Carlson said that any year in which performance is under the assumed rate of 7.75 percent would theoretically add something to that number. Mr. Thielen said that House Bill 1 was a significant move to improve the funding of the System. He stated, however, that until 2024 the KERS system will still be underfunded, and this will continue to have a negative overall impact. The cost-of-living increase, which is not prefunded, is one of several other factors that add to the underfunding. Mr. Carlson emphasized that diversifying the portfolio and reducing volatility will increase the likelihood of meeting the 7.75 percent assumed rate of return.

When asked by Representative Fischer, Mr. Carlson said that inflation has always been a component of the assumed actuarial rate and that it has probably fluctuated between 3.0 and 3.75 percent. Real rates of return have typically been between 4.0 and 6.0 percent in the United States over the last three or four decades.

Representative Thompson asked whether the assumed rate of return is considered realistic, going forward, and whether any thought has been given to “tweaking” it down. Mr. Thielen said that the asset/liability modeling study completed last year recommended a middle-of-the road approach and concluded that 7.75 percent was a credible, reasonable assumed rate of return over the long term. There were no further questions, and Representative Cherry thanked the speakers.

Personnel Board—Status Report

Mark Sipek, Executive Director, Kentucky Personnel Board, was present. Due to shortness of time and after thanking Mr. Sipek for attending, Representative Cherry postponed this report to a future date.

Subcommittee Report and Adjournment

The September 27 and October 25 subcommittee reports of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs were approved without objection, upon motion by Representative Pullin. Business concluded, and the meeting was adjourned at 3:30 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Minutes of the 5th Meeting of the 2011 Interim
October 25, 2011

Call to Order and Roll Call

The 5th 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 25, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., Jimmy Higdon, Gerald A. Neal, R.J. Palmer II, John Schickel, Dan “Malano” Seum, Robert Stivers II, and Johnny Ray Turner; Representatives Kevin D Bratcher,

Mike Cherry, Larry Clark, Joseph M. Fischer, Derrick Graham, Mike Harmon, Melvin B. Henley, and John Will Stacy.

Guests: Elaine Walker, Secretary of State; Kenneth L. Tab, Hardin County Clerk; Julie K. Barr, Oldham County Clerk; and Mimi Marziani, Counsel, Democracy Program, Brennan Center for Justice at New York University School of Law.

LRC Staff: Greg Woosley, Bill VanArsdall, Karen Powel, Kevin Devlin, and Terisa Roland.

Approval of Minutes

The minutes of the meeting of September 27, 2011, were approved without objection upon motion by Senator Thayer and second by Representative Clark.

Update on Polling Place Accessibility

Secretary Elaine Walker updated the Task Force on polling place accessibility. Secretary Walker testified that evaluating polling place accessibility is a continuous process and that any new polling place is surveyed before being approved as accessible by the Kentucky Disabilities Coalition. As many as 151 polling places out of approximately 2,500 were listed as inaccessible in the early part of 2011, but this number has been reduced to 12, with an additional 16 polling places needing surveys and final approval by October, 2011.

A copy of Secretary Walker’s presentation can be found in the Legislative Research Commission library.

Discussion of Local Option Elections

The Task Force discussed local option elections. Secretary Walker first testified that current law requires that local option elections be held not earlier than 60 days or not later than 90 days from the filing of the petition, and that local option elections cannot be held on the same day as a primary or regular election. Hardin County Clerk Kenneth Tab and Oldham County Clerk Julie Barr then testified as to their recent experiences with local option elections, and both clerks expressed concern at the cost of holding these elections on days other than primaries or regular elections. Ms. Barr noted that current law requires counties to ask potential poll workers whether they support or oppose the local option election issue, and that this inquiry can make it difficult to find adequate numbers of workers. Mr. Tab testified that Hardin County had four local option elections this year alone, with the last election comprising 30 precincts at an approximate total cost of \$33,000. Both clerks testified that they did not believe having local option elections on regularly scheduled election days would be a burden, and

both clerks suggested that the General Assembly should consider making this statutory change to help the counties cut election costs.

Several members of the Task Force posed questions and voiced their opinions and concerns to changing local option election days.

The members asked Secretary Walker to discuss potential voter turnout for the upcoming 2011 general election before moving on to the next agenda item. Secretary Walker reported that her office was estimating a 25 to 8 percent turnout based on the rate of requested absentee ballots compared to the rate of requests and ultimate voter turnout observed in prior elections.

A copy of the presentation can be found in the Legislative Research Commission library.

Voting Law Changes in 2012 – A National Study

Mimi Marziani, Counsel to the Democracy Program of the Brennan Center for Justice at New York University School of Law, then presented a national study and report on voting law changes in 2012. Ms. Marziani noted that many states enacted new registration and voter identification laws in the 2011 legislative sessions, and that the Brennan Center's research indicated that these new laws could have an adverse impact on voter participation in the 2012 elections. Specifically, Ms. Marziani noted that several states enacted new voter identification requirements, but that these efforts were proving to be costly due to litigation, free identification card requirements, and necessary public information campaigns during implementation. As an example, Ms. Marziani noted that a fiscal note attached to a Missouri voter identification bill estimated the costs at \$6,000,000 to implement and as much as \$4,000,000 in ongoing annual costs.

Several members of the Task Force voiced their opinions and concerns on Ms. Marziani's presentation, with the focus being a desire by some members to ensure election integrity balanced against concerns by other members about the costs of new voting restrictions and the potential impacts on already low voter turnout numbers.

Ms. Marziani distributed copies of the Brennan Center's national study and report to the members, and she utilized a PowerPoint presentation to summarize the findings in the report. A copy of the Brennan Center's report and Ms. Marziani's PowerPoint presentation can be found in the Legislature Research Commission

library.

Business concluded, and the meeting adjourned at 2:30 p.m.

TASK FORCE ON THE PENAL CODE AND CONTROLLED SUBSTANCES ACT

Minutes of the 4th Meeting of the 2011 Interim
October 7, 2011

Call to Order and Roll Call

The 4th meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Friday, October 7, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Tom Jensen, Chair, called the meeting to order, the secretary called the roll, and a quorum was present.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; J. Michael Brown, and Tommy Turner.

Guests: Michael Bischoff, Kentucky Association of Chiefs of Police; Douglas Wain, War Against Violence; Marylee Underwood, Kentucky Association of Sexual Assault Programs; Ed Monahan and Damon Preston, Department of Public Advocacy; Ernie Lewis, Kentucky Association of Criminal Defense Attorneys; Lt. Col. Joe Williams, Kentucky State Police; and Lt. Chris Van Brackel, Lexington Metro Police Department.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, and Rebecca Crawley.

The minutes of the September 14, 2011 meeting were approved without objection.

Discussion of defense bar proposals for task force recommendations

Ernie Lewis, Kentucky Association of Criminal Defense Attorneys, said his organization represents 300 criminal defense lawyers across the state. KACDL's priorities include reform of persistent felony offender statutes, implementation of 2011 House Bill 463, establishment of a Class E felony, reclassification and decriminalization of offenses, opposition to proposed gang legislation, and parole restrictions. Mr. Lewis said the expanding provisions of the persistent felony offender (PFO) statute and its increasing sentences have contributed to prison overcrowding and have been used by prosecutors as a bargaining tool for plea agreements from defendants. He said 98 percent of cases are now settled by plea bargains instead of jury trials, resulting in a shift of power from judges and juries to prosecutors. KACDL supports use of evidence based practices, reduced emphasis on incarceration, the treatment of drug

abuse as a medical problem, and other advances in HB 463, and urges the committee to adequately fund treatment and alternatives to incarceration. One in five Kentucky prisoners have been convicted under PFO statutes, over 4,000 persistent felony offenders are serving an average sentence of eleven years, costing the state \$28 million annually or \$317 million if they serve out their sentences. He recommended Kentucky return to the originally enacted PFO statute, eliminate PFO 2, require actual incarceration for the underlying offense, and restrict PFO 1st degree to violent felonies. He recommended using the higher number of years in the prescribed penalty ranges for repeat offenders.

Mr. Lewis said pushbacks to House Bill 463 include deferred prosecution, citations rather than arrests, and pretrial release. KACDL recommended expanding KRS 431.015, relating to citation and arrest for misdemeanors, to include other appropriate offenses, clarifying the deferred prosecution statute, and strengthening the pretrial release statute. KACDL also supports creation of a Class E felony classification but cautioned against moving some misdemeanor crimes into the new felony classification. He urged the task force to eliminate sentence enhancements and barriers to restoration to society, including expanded expungement, restoration of voting rights and elimination of job restrictions. He urged the task force to consider reclassification of offenses, such as lowering felony classifications, moving some Class D felonies to misdemeanors, making some misdemeanor violations, resulting in incarceration savings, smaller dockets, and a more efficient court system. Senator Jensen asked how many persons were charged with being a PFO only to have the charges dropped in exchange for a guilty plea to another offense. Mr. Lewis said he would try to get that figure and provide it to the committee. When asked about prosecutor's objections to deferred prosecution because of the difficulty in preserving evidence and requiring persons to plead guilty or admit the facts prior to deferred prosecution, Mr. Lewis responded that preserving evidence for two years is not that difficult and persons should not be required to admit guilt in exchange for deferred prosecution. He said KACDL opened a dialog with county attorneys and he was hopeful it would be productive.

Mr. Lewis said KACDL supports the proposed database for gangs and gang-related activities and offenses, but questioned the approach discussed at the September meeting. He was very concerned about the proposed sentence enhancements and said

crime data does not indicate this is a statewide problem.

Ed Monahan, Public Advocate, Department of Public Advocacy, said his agency defends 150,000 cases per year, with an average caseload of 500-600 new cases annually per public defender, hampering the ability to provide defendants with proper defense. High caseloads affect whether DPA recommends clients go to trial instead of accepting plea agreements, and data indicates if an attorney is present at the first court appearance, the odds are much better for getting pretrial diversion for clients. Moving selected misdemeanors to citations would help lower caseloads and allow DPA to better represent its clients. Kentucky spends \$169 million annually to incarcerate persistent felony offenders and violent offenders. Two hundred seventy-four of these offenders are over sixty-five years old and statistics show that recidivism falls sharply as people age, another unintended consequence of PFO sentence enhancements. He recommended allowing juries to decline to sentence on persistent felony offender charges, which they are not allowed to do under current law. He urged the General Assembly to provide DPA with additional resources to reduce caseloads and improve service.

Damon Preston, Deputy Public Advocate, said DPA conducted a survey of its public defenders on implementation of House Bill 463 and discussed the results. Successes included increased use of pretrial release, fewer misdemeanor arrests, and lower sentences for low-level traffickers. Areas needing more work included deferred prosecution, pretrial release, and clarification on use of bail and fine credits. Mr. Preston said it is ironic that pretrial release was considered both a success and a failure of HB 463. In the big picture, it works but some judges are not following the intent of the legislation. He suggested clarifying language for deferred prosecution and making it mandatory instead of allowing judicial and prosecutorial discretion, and clarifying how bail credit and jail sentence credit are to be used. Other recommendations included presuming the risk assessment is valid by law, defining what constitutes a high risk defendant, increasing the number of offenses for which citations are issued instead of arrest, requiring records expungement in more cases, and curtailing abuses of discretion by police and prosecutors.

Mr. Monahan said DPA supported creation of a new Class E felony classification and suggested it include offenses with sentences between one and two years with automatic probation at sentencing, would not be

eligible for persistent felony offender and could not be used for later PFO or enhancement, probation should be limited to two to three years instead of five, expungement should be automatic or obtainable, should be exempt from statutory employment barriers, and should not be eligible for transfer from juvenile court. He suggested possible offenses which would fit this proposed felony category, including flagrant nonsupport, possession of controlled substance 1st degree, theft over \$500 but under \$2500, obtaining benefits by fraud, assault 3rd degree, and tampering with evidence, among others.

Mr. Monahan suggested reducing some misdemeanors to violations, which would still hold offenders accountable and maintain their rights to a jury trial. This proposal would save money through fewer court proceedings, no court-appointed attorneys, no county jail expenses, and no conditional discharge and supervision costs. He suggested several misdemeanors which could be reduced to violations, including lack of insurance, driving on a suspended license, disorderly conduct, and public intoxication, among others.

Mr. Monahan urged increased funding and expansion of the DPA alternative sentencing social worker program to all 120 counties. The state saves about \$100,000 annually for each DPA social worker because of lower incarceration and lower recidivism.

Discussion of law enforcement proposals for task force recommendations

Lt. Chris Van Brackel, an attorney and law enforcement officer with the Lexington Fayette Urban County Police Department, recommended repealing the provisions in HB 463 that decreased the right of police to arrest for misdemeanors and required the use of citations. Lt. Van Brackel said the provisions hamper law enforcement's ability to investigate after arrest, and they allow repeat offenders to continue to commit crimes while awaiting their court date. Statutes relating to arrest are now contradictory, leading to confusion and the potential liability for false arrest. Projected savings in incarceration are not worth the increased cost of crime and decreased feelings of public safety. Some of the specific problems when an officer is required to cite rather than arrest include the inability to conduct a search or fingerprint and photograph the individual, and the inability to have the person questioned by a detective. A custodial arrest allows time for further investigation and has a deterrent effect. Since Lexington police began issuing citations, failures to appear in court for misdemeanors have increased significantly, and K-9 units are not used in Lexington unless the police

can make an arrest when the suspect is found. Lt. Van Brackel said the PEW Foundation favored immediate sanctions for offenders which a custodial arrest provides. Secretary Brown commended Lt. Van Brackel on his presentation and commented the PEW Foundation's immediate sanctions were predicated on the person being convicted of the offense, not just charged with one. Lt. Van Brackel responded his statement had been misunderstood. Lt. Van Brackel also said the language about a danger to self or others and failure to follow reasonable orders needs clarification. County Judge-Executive Turner said the requirements for issuance of a citation were saving money for counties and the \$25 booking fee charged by many jails would not offset the cost of incarceration.

Lt. Col. Joe Williams, Kentucky State Police, made several recommendations to the task force, including clarification of citation and arrest language, such as adding theft by unlawful taking to the shoplifting exception, expansion of the data elements for lying to police about name and address to include date of birth, social security number and other items, permitting a peace officer to issue a citation for any misdemeanor where the officer had reasonable cause to believe the defendant committed the misdemeanor rather than requiring the officer to witness the action, cumulating the drug possession limits over a 90 day period similar to the accumulation of drug trafficking offenses, expanding internet child exploitation legislation to cover contact without effort to meet the child, criminalizing sexual chatting, and prohibiting sex offenders from photographing children. Senator Jensen said the task force is still seeking suggestions and urged submission of additional suggestions.

Douglas Wain, Violence Prevention Through Education, said while overall crime may have decreased, violent victimization remains steady, and gun crime in Lexington is up by 300 percent. He urged the state to provide more education on prevention of violent crime and victimization, urged the adoption of a free sales tax day for any community with a ten percent drop in violent crime, and urged creation of a task force to study violent crime. Education is the best way to reduce violence. His organization is known as waragainstviolence.com.

Senator Jensen announced the next meeting of the Task Force will be November 18, 2011. The meeting adjourned at 3:25 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting
of the 2011 Interim
November 1, 2011

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, November 1, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators David Givens, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Bob Leeper, R.J. Palmer II, John Schickel, Tim Shaughnessy, Damon Thayer, Johnny Ray Turner, and Mike Wilson; Representatives John A. Arnold Jr., Linda Belcher, Leslie Combs, Jim DeCesare, David Floyd, Richard Henderson, Melvin B. Henley, Jimmie Lee, Donna Mayfield, Charles Miller, Terry Mills, Lonnie Napier, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Steven Rudy, John Short, Arnold Simpson, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner.

Guests: Steve Blackistone, State and Local Liaison, National Transportation Safety Board; Jason Gabbard, Assistant Vice President, The Allen Company, Inc., Chairman, Kentuckians for Better Transportation Safety Board; Mike Hancock, Secretary, Steve Waddle, State Highway Engineer, Department of Highways, Kentucky Transportation Cabinet.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Jennifer Beeler

Approval of the minutes from the Committee's October 4, 2011 meeting

Representative Lee made a motion to approve the minutes from the October 4, 2011 meeting as submitted. The motion was seconded by Representative Miller and adopted by voice vote.

Final report of the National Transportation Safety Board's investigation into the fatal crash that occurred on I-65 near Munfordville on March 26, 2010

Steve Blackistone, State and Local Liaison, National Transportation Safety Board (NTSB) said the NTSB is an independent federal agency charged by Congress to investigate transportation accidents, determine their probable cause, and make recommendations to prevent their recurrence. The recommendations that arise from investigations and safety

studies are the most important tool for bringing about life-saving changes.

Motor vehicle crashes are responsible for more deaths than accidents in all other transportation modes combined. They account for more than 90 percent of all transportation related deaths each year. Distractions from cellular telephones contribute to these accidents, and the failure to use seat belts contributes to these injuries and deaths that result.

Mr. Blackistone stated that the accident that occurred on Friday, March 26, 2010, at approximately 5:14 a.m. involved a truck-tractor semitrailer combination being driven by a 45 year old male. The vehicle was traveling south on I-65 near Munfordville, the truck departed the left lane of southbound I-65 at a shallow angle and entered the 60 foot wide depressed earthen median. The truck traveled across the median, then struck and overrode the median barrier adjacent to the left shoulder of northbound I-65. It then crossed the left shoulder and entered the travel lanes of northbound I-65 striking a 15 passenger van occupied by 11 passengers. As a result of the accident, the truck driver, the van driver, and nine van passengers died. Two child passengers in the van, who were using child restraints, sustained minor injuries.

The NTSB investigation found that there were two primary safety shortcomings that were identified during this tragic accident: the use of a cellular phone by the truck driver and the lack of proper seat belt use.

Seat belts can be the best defense against motor vehicle injuries and fatalities because they protect vehicle occupants from the extreme forces experienced during crashes. In 2009, only 1 percent of vehicle occupants in fatal accidents using seat belts were ejected, while 31 percent of unrestrained vehicle occupants were ejected. Among those occupants totally ejected from their passenger vehicles, 77 percent were killed.

All 15 seat positions in the Munfordville accident van were equipped with either lap belts or lap/shoulder belts. Of the 12 van occupants, only 4 were using safety restraints.

Mr. Blackistone stated that in evaluating the possible role of cellular telephone distraction in the Munfordville accident, the NTSB examined the proximity of cellular telephone use to the time and location of the accident, the nature of the cellular telephone use and how that use would affect driving performance, details about the calls based on witness interviews, and the nature of the driver error committed.

As indicated by the records of

his cellular service provider, the truck driver repeatedly used his cellular telephone while driving and after mapping the use of his phone the NTSB found that the driver made an outgoing phone call just seconds before the accident occurred. The NTSB concluded that because the driver was distracted from the driving task by the use of his cellular telephone at the time of the accident, the truck driver did not maintain control of his vehicle.

In addition to the two issues of direct interest to Kentucky, the NTSB investigation also identified concerns with respect to federal standards for the design of median barriers on divided highways and to the federal oversight of interstate motor carriers. The NTSB has issued recommendations to other Federal agencies regarding both issues, and is awaiting responses.

In response to Representative Collins, Mr. Blackistone stated that the approximate speed of both vehicles at the time of collision was 70 mph, but there was no concrete evidence to state what the speed of the truck was at the time of departure from its lane.

In response to Senator Harris, Mr. Blackistone said the driver had approximately five hours sleep the night before the accident occurred and had driven a substantial length of time the day prior.

In response to Representative DeCesare, Mr. Blackistone stated there were cable barriers present and the investigation found that the truck drove over top the median. He added that the NTSB did not include in their investigation making that portion of highway six lanes or adding a concrete barrier.

In response to Senator Harris, Mr. Blackistone said that with regard to seat belts in 15 passenger vans, many states' statutory language is obscure as to which vehicles the seat belt law applies to. He stated that there is no state that prohibits all cell phone use by commercial drivers, both hand held and hands free. There are seven states that have prohibitions on hand held cell phone use, but the drives are able to use hands free devices.

In response to Senator Givens, Mr. Blackistone stated that the phone call the driver was involved in at the time of the accident was not long enough to connect with the recipient of the phone call.

In response to Representative Rudy, Mr. Blackistone said that the NTSB has asked the National Highway Traffic Safety Administration to look into ways to improve safety standards and occupant protection on school buses.

In response to Representative Belcher, Mr. Blackistone stated drivers of large vehicles are trained not to make any sudden corrections

if a circumstance occurs that they run off the road. He mentioned that it is unclear as to why the driver did not try and correct the vehicle after he ran off the road.

Legislative Recommendations from the Kentuckians for Better Transportation Safety Committee

Jason Gabbard, Assistant Vice President, The Allen Company, Inc., Chairman, Kentuckians for Better Transportation (KBT) Safety Board started his presentation by discussing how KBT agrees with the NTSB's recommendations that Kentucky's primary seat belt law should be expanded to include 12-15 passenger vehicles.

Mr. Gabbard mentioned that Kentucky's seat belt law currently applies to vehicles designed to carry ten or fewer passengers, which means 12-15 vehicle passengers are not required to wear a seat belt. KBT researched the state statutes of other states and found that many other states do not have a primary seat belt law and many other states do not require seat belts in the back seat.

Since September 2005, federal law has required that automakers equip 12-15 passenger vehicles with type 2 seat belts, which are the standard lap and shoulder harness belts. He mentioned the KBT stands behind the General Assembly and urges the improvement in the primary seat belt law.

In response to Representative Collins, Mr. Gabbard stated that up until September 2005, 12-15 passenger vehicle manufacturers were not required to install type 2 seat belts, but after federal law was passed all vehicles are now equipped with both shoulder and lap harnesses.

Update on the Contract Award for Repairs of the Sherman Minton Bridge in Louisville

Steve Waddle, State Highway Engineer, Department of Highways, Kentucky Transportation Cabinet gave a brief overview on the status of the Sherman Minton Bridge construction.

Mr. Waddle stated that the bid process for the Sherman Minton Bridge was an "A+B" bid, which placed a monetary value on the estimated time of completion. Part A of the bid encompasses the material and labor for the project, and is essentially a traditional project bid. Part B of the bid requires the contractor to bid a number of days to complete the project, up to a maximum of 210 days for this project. The number of days bid is multiplied by \$100,000 per day to determine the value of Part B of the bid. Part A and Part B are then added to establish a total bid amount for bid letting purposes.

The winning bid was submitted by Hall Contracting of Louisville. Hall bid \$13.9 million in project costs with

a time frame of 135 days. The contract contains a completion bonus/penalty of \$100,000 a day. For early completion the contractor will receive that amount per day, up to \$5 million. Conversely, there is a penalty of \$100,000 a day for every day over 135 days with no maximum in penalties.

In response to Representative DeCesare, Mr. Waddle stated that the project is projected to cost \$13.9 million. He stated that the incentive is just contracted with the prime contractor and it would be up to that company to share the incentives with the sub-contractors.

In response to Representative Collins, Mr. Waddle stated that in the case where the project gets finished early up to the \$5 million incentive cap, the project could total approximately \$18.9 million.

In response to Representative Floyd, Mr. Waddle said that completion of the project will be determined when all the necessary inspections have been done and traffic is flowing on the bridge.

In response to Representative Collins, Mr. Waddle stated that the federal government provided \$5 million towards the project and Kentucky would be responsible for 50 percent of the remaining balance.

In response to Representative Henderson, Mr. Waddle commented that Indiana is the lead state on the project and have hired an expert to inspect the project as it progresses, but Kentucky will also be performing periodic inspections as well.

In response to Representative Lee, Mr. Waddle stated that the added steel will be bolted to the current structure.

In response to Senator Shaughnessy, Mr. Waddle stated that the project was due to start November 2, 2011 and should be completed the first week in March.

In response to Senator Thayer, Mike Hancock, Secretary, Transportation Cabinet stated that the use of a double diamond crossover interchange at the New Circle Road/Harrodsburg Road interchange was a tool to move traffic more smoothly and efficiently in an area that was consistently congested. Secretary Hancock stated that if there is a project in another area where this configuration would be helpful, the Cabinet will use this option again. He stated that one of the drawbacks the Cabinet is finding is that the interchange was opened to traffic prematurely.

Report of the Subcommittee on Kentucky Waterways

Senator Leeper thanked the co-chairs for allowing the Subcommittee on Kentucky Waterways to be formed to bring attention to what Kentucky can do with the waterways and

infrastructure improvements. Senator Leeper presented the report from the subcommittee's October 4 meeting where the subcommittee heard testimony David Mast, President/CEO, Mast Solutions about the recent 2011 Midwest Regional Panama Canal Conference and the benefits of the Panama Canal expansion to Kentucky. The committee also heard from Greg Pritchett and Norb Whitlock of the Water Transportation Advisory Board. They presented an overview of the board's recent actions as well as, a wish list of suggested legislative changes.

Senator Leeper presented the report from the subcommittee's November 1 meeting where the subcommittee heard testimony from members of the Kentucky River Authority, Kentucky Fish & Wildlife, U.S. Army Corps of Engineers, and the U.S. Coast Guard. They discussed the procedure for handling abandoned and sunken water vessels on Kentucky's waterways.

With no further business before the committee, the meeting adjourned at 2:35.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Subcommittee on Kentucky Waterways

Minutes of the 3rd Meeting of the 2011 Interim November 1, 2011

Call to Order and Roll Call

The 3rd meeting of the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation was held on Tuesday, November 1, 2011, at 10:30 AM, in Room 154 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Senators Ernie Harris, and R.J. Palmer II; Representative Charles Miller.

Guests: Jerry Graves, Executive Director, David Hamilton, Staff Engineer, Kentucky River Authority; Tommy Russell, Deputy Director, Frankfort/Franklin County Office of Emergency Management and Homeland Security; Rick Lewis, Chief, Maintenance Section, Technical Support Branch, Operations Division, U.S. Army Corps of Engineers; Commander Doug Simpson, Chief, Prevention Department, Coast Guard Sector Ohio Valley, U.S. Coast Guard; Captain Mike Fields, Boating Law Administrator, Dr. Jon Gassett, Commissioner, Kentucky Department of Fish and Wildlife Resources.

LRC Staff: Brandon White, Dana Fugazzi, and Jennifer Beeler.

Discussion on Sunken and

Abandoned Water Vessels

Rick Lewis, Chief, Maintenance Section, Technical Support Branch, Operations Division, U.S. Army Corps of Engineers (USACE) informed the committee that the USACE provides a navigable channel for commercial navigation and the U.S. Coast Guard (USCG) maintains waterway safety and security. Submerged vessels that can create obstruction to navigation must be removed and the cost of removal is typically borne by the vessel's owner. Submerged vessels not obstructing navigation are left in place. The Kentucky River is not a commercially navigable waterway and is not maintained by the USACE.

Commander Doug Simpson, Chief, Prevention Department, Coast Guard Sector Ohio Valley, U.S. Coast Guard, stated that the Federal Water Pollution Control Act (FWPCA) gives the USCG authority to remove sunken vessels creating substantial pollution threat, also The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) gives the USCG the authority to remove sunken vessels that pose substantial harm to public health, and the Abandoned Barge Act of 1992 gives authority to remove barges posing significant threat to public health, safety or welfare.

Commander Simpson explained that the USACE Huntington district controls Greenup Lock and Dam and the Louisville District controls 8 locks and dams on the Ohio River and 2 on the Green River. Additionally the Nashville District controls the Cumberland and Tennessee Rivers. The USCG Ohio Valley Sector has jurisdiction over the entire Ohio Valley and the Federal Tributaries from Pittsburg down to the confluence of the Ohio and Mississippi Rivers.

If a vessel is obstructing navigation first, the USCG will try to contact the owner of the vessel. If there is no owner present, the USCG will pursue federal funding to remove the vessel. If an owner is present at that time, the owner will apply for the applicable permits to remove the vessel. If a vessel is not obstructing navigation, the question becomes whether the vessel is leaking fuel or chemicals or is posing a water safety hazard. If a vessel does contain chemicals or fuel, the USCG will contact the U.S. Environmental Protection Agency (EPA), which will have responsibility to handle the fuel and chemicals. If the vessel is posing a water safety hazard, the USCG will try to contact the owner to remove the vessel. If there is no owner or the owner cannot be contacted, the USCG will have the vessel removed. In a case where the vessel poses no safety hazard and does not contain any chemicals or fuel, the vessel will then be left in

place, marked, and monitored.

Mr. Lewis stated that the USACE uses best judgment to decide if a vessel is obstructing navigation. If the vessel is infringing on the navigable channel, which measures 300 feet wide and 9 feet deep on the Ohio and Green Rivers, or blocking a lock chamber or dam opening, the vessel will need to be removed.

In preparation for the owner to remove a vessel, it will need to contact the USACE or USCG. One of those agencies will determine whether the vessel is obstructing navigation or posing an environmental or safety hazard. The owner may have to apply for an USACE permit for removal, and the USACE will oversee the removal of the vessel. At no point does the USACE or USCG contract anyone to remove any vessels.

In response to Senator Leeper, Commander Simpson explained that a vessel sinking or causing danger to navigation does not happen as often as some might think, although there may be one every few months.

In response to Senator Harris, Captain Mike Fields, Boating Law Administrator, Kentucky Department of Fish and Wildlife Resources, stated that recreational boating is the responsibility of the state. The state averages approximately 75 boating accidents a year, and of those, less than 10 percent are sinkings.

In response to Senator Leeper, Commander Simpson stated that vessels left in place that have previously not caused a navigation issue and were not a chemical hazard, will break loose from time to time as water levels change causing hazards to navigation and waterways. At that time, the USCG and USACE will take necessary efforts to salvage those vessels.

In response to Representative Miller, Mr. Lewis explained that often vessels in deep enough water are not considered to be a threat since there is no obstruction to the channel or environmental danger. There have been times when barges have had to be removed from the navigation channel after breaking away as a result of increased water levels.

Commander Simpson added that if a vessel is not posing an immediate threat, it will be marked in order for oncoming barges and recreational boaters to stay clear of that area.

In response to Representative Miller, Mr. Lewis stated that the USACE does have the resources and equipment to manage all eight locks and dams within the Louisville district.

In response to Senator Palmer, Mr. Lewis stated that USACE has funds set up for any district facing a situation where the owner does not

have funds available to remove the vessel.

In response to Senator Palmer, Commander Simpson explained that when a vessel sinks and has fuel on board, it does pose an environmental threat. The USCG or USACE will take steps to contact the responsible owner to remove the fuel or chemicals from the vessel or remove it completely. If there is a circumstance where the owner of the vessel is unknown or the owner is incapable of removing the vessel, the USCG will then take action to find out what chemicals are still on board the vessel. The USCG or the USEPA both have access to funds that are set in place to allow for the removal of chemicals or the vessels completely.

Jerry Graves, Executive Director, Kentucky River Authority (KRA) discussed that the main priority of the agency is to maintain water supply from Beattyville to Carrollton. KRA has responsibility over 14 locks and dams and own locks 5 through 14 the USACE owns locks 1 through 4. Lock 4 is currently the only operational lock on the Kentucky River System. He stated that in the last year there have only been two vessels that have caused any concern.

In response to Senator Leeper, Tommy Russell, Deputy Director, Frankfort/Franklin County Office of Emergency Management and Homeland Security stated that if a vessel is not leaking any chemicals or posing an environmental threat, there are not any policies that give authority to remove the vessel.

In response to Senator Palmer, Mr. Graves stated that in 2010 a vessel broke loose and was blocking the chamber to Lock 4. KRA had to remove the vessel because the owner did not have the means and there was a possible threat that the vessel would block the approach to the lock.

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

INTERIM JOINT COMMITTEE ON VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

Minutes of the 5th Meeting of the 2011 Interim October 13, 2011

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, October 13, 2011, at 1:00 PM, in Room 154 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

Tanya Pullin, Co-Chair; Senators Carroll Gibson, Vernie McGaha, Dennis Parrett, Joey Pendleton, Dan "Malano" Seum, Kathy W. Stein, Katie Kratz Stine, Mike Wilson, and Ken Winters; Representatives Royce W. Adams, Tom Burch, Mike Cherry, Larry Clark, Leslie Combs, Myron Dossett, Bill Farmer, David Floyd, Jim Glenn, Jeff Greer, Jimmie Lee, Terry Mills, Tim Moore, Fred Nesler, Tom Riner, Carl Rollins II, Sal Santoro, Rita Smart, John Tilley, and Alecia Webb-Edgington.

Guests: Brigadier General John W. Heltzel, Director, Kentucky Division of Emergency Management and Deputy Commander, Colonel William A. Denny, Director of Operations, Major General Edward W. Tonini, Adjutant General, Kentucky National Guard (KNG).

LRC Staff: Erica Warren, Clint Newman II, Tiffany Opii, Kristopher Shera, and Rhonda Schierer.

Minutes

Representative Burch moved to approve the September minutes. Senator Wilson seconded the motion. The minutes were approved.

Resolution

Representative Glenn read a resolution in memory and honor of Specialist Brandon Scott Mullins. Representative Pullin moved to adopt the resolution, Representative Combs seconded the motion, and the motion was adopted.

Kentucky Department of Military Affairs Update

Major General Edward W. Tonini, Adjutant General, KNG, gave a PowerPoint presentation on several aspects of the KNG. Gen. Tonini discussed dual purpose capabilities of the NG and stated that soldiers are being deployed, and the guardsmen are being called upon to provide services to the people of the Commonwealth which include transportation, truck assets, medical assets, engineering, and military police. Gen. Tonini added that 85 percent of the guardsmen are not full-time soldiers.

Gen. Tonini discussed the KNG mobilization timeline for 2011-2014. He stated that in 2012 and 2013, KNG deployments will be up to 2,000 soldiers mobilized across the world.

Gen. Tonini discussed specific teams within the KNG, including the Agribusiness Development Teams (ADT), Civilian Support Team, and the Initial Response Hub. The Kentucky specific operations include Emergency Management, Bluegrass Station, and the Kentucky Logistics Operations Center. Gen. Tonini stated that the 201st Engineer Battalion received the Valorous Unit Award. This award is the equivalent of the individual Silver Star Award. It is the first time in Kentucky history that a guard unit has received

this award.

Col. William A. Denny gave a PowerPoint presentation on the Kentucky National Guard Chemical, Biological, Radiological, Nuclear and Explosive (CBRNE) Operations and the 41st WMD-Civil Support Team (WMD-CST). Col. Denny stated that the mission of the 41st WMD-CST is to support civil authorities at domestic incident sites by identifying CBRNE agents/substances, assessing current and projected consequences, and advising on response measures. The 41st WMD-CST supports the Governor and Incident Commander, operates only in the U.S., uses non-military equipment, has 22 full-time personnel, consists of both Army and Air guardsmen, has 15 military specialties, and is interoperable with civil responders.

In response to a question from Senator Pendleton, Col. Denny stated that Breckinridge County hospital reported a suspicious odor that caused some staff and patients nausea. A CST unit was called, which discovered that the odor was caused by a diesel fuel spill in the vicinity of the HVAC and it was secured.

Gen. Tonini stated that the KNG has ongoing projects at the Wendell H. Ford Regional Training Center in Greenville, Kentucky, and at the Harold L. Disney Training Center in Artemus, Kentucky. The Owensboro Readiness Center has broken ground, and the Burlington Readiness Center should be up and going within 18 months. Gen. Tonini stated that frequent deployments, citizen-soldier turned active duty resources, and family financial stress, are some of the challenges facing support resources. He stated that 98 percent of funding is from the federal government and that funding is in jeopardy and funding for Department of Defense (DOD) programs will be cut significantly. He also stated that a Youth Challenge Program in Harlan County will open in July 2012.

Gen. Tonini discussed updates on the Kentucky Military Family Assistance Trust Fund (MFAST). He stated that the MFAST is a financial safety net for the Kentucky's military families which was funded by the legislature as a way of helping deployed soldiers in an emergency kind of situation. The MFAST criteria changed some this year to help with things that were not feasible within the original configuration. Gen. Tonini added that the program still has good funding and has been used extensively in the last six months.

Gen. Tonini discussed the Kentucky National Guard Memorial. The memorial will be constructed at the entrance to the Boone National Guard Center to honor all Kentucky

guardsmen who have served in the modern Kentucky National Guard, from March 1912 to present. The total cost of the memorial is estimated to be \$928,000. The unmet need is approximately \$508,000. The KNG is looking to raise money for the memorial via private donations. There have been 346 people identified to date including the 17 that lost their lives in the Global War on Terrorism.

In response to a question from Representative Glenn, Gen. Heltzel stated that there is an automatic activation of troops when an earthquake is at a 6.0 level or higher.

Gen. John W. Heltzel gave a PowerPoint presentation on the National Level Exercise (NLE) that various people participated in that used an earthquake along the New Madrid premise. The threat zone for the New Madrid earthquake centers on Western Kentucky. Gen. Heltzel stated that Kentucky hosted the National Level Exercise coordinated by the U.S. Department of Homeland Security (DHS) for five days in May. The NLE scenario involved an earthquake of up to a 7.8 magnitude. The New Madrid Fault area includes four FEMA regions and there are 15 federal emergency support functions spanning eight states. The NLE provided the participating states not only an opportunity to test their plans, but also to work with Virtual USA, a federally supported system to provide cross-jurisdictional information sharing. The Governor and all cabinet members went to the Boone Center and received the earthquake response plan brief and an update specifically on the response on the day of the NLE. The Governor, General Tonini, and Gen. Heltzel video teleconferenced with the White House and seven surrounding states to let the federal government know what they would need to properly respond.

Gen. Heltzel stated that bringing the private sector back online during an emergency is key for critical information and meeting the needs of the citizens of the Commonwealth. The private sector contacted the National Guard wanting to get help in protecting their citizens and businesses, and they set up a system that allows businesses to register in advance to assist in an emergency.

Gen. Heltzel stated that one of the big lessons learned during the ice storm in 2009 for the Commonwealth was that there was absolutely no one working in resource management. During the NLE they set up multiple groups that formed a task force of over 50 people that managed how to provide the daily requirements for a potential evacuee mission of over 120,000 people. Gen. Heltzel encouraged a plan to create a system of redundant communications

focused on satellite communications and portable generator solutions.

Gen. Heltzel gave an update on the Golden Alert System which was enacted by the General Assembly in 2008. The system attempts to aid in the rescue of impaired adults and individuals with organic brain syndromes. Gen. Heltzel pointed out that the crucial act is the reporting of a missing adult. Gen. Heltzel described several cases in 2011 which could have resulted in a better ending if there was a search done more rapidly. People with this impairment are identified, there are pictures available on them, and as soon as they are not where they are supposed to be, the process is started to find them. Gen. Heltzel presented some recommendations from the emergency management community that would be helpful in improving the system: (1) making sure long-term health care facilities and their employees understand the requirements of managing impaired adults and a photograph is on file; (2) improving the screening process to make sure patients are identified correctly; (3) removing the exemption given to long-term health care providers under KRS 39F.180 for speedy reporting of individuals deemed to be missing from the facility; (4) placing video cameras at all entrances and exits of health care facilities; and (5) offering regular training regarding the requirement for early notification of the County Emergency Management Director and County Search and Rescue Coordinator when notified of a missing person.

In response to a question from Representative Glenn, Gen. Heltzel stated that he did not think that the National Guard should be trained along with the policemen, firemen, and EMTs to receive dementia and Alzheimer's training due to time constraints, however, the first responder community needs to understand the issue and the communications links and bridge the gaps to meet the need.

In response to a question from Co-Chair Pullin, Col. Denny stated that the CERFP can report to industrial sites in Kentucky if there is an accident. He stated that it can respond to natural or manmade emergencies. Gen. Heltzel added that due to the distance of travel in for the CERFP, the local fire and rescue are the ones that would ultimately respond to hazards unless the event exceeds the local ability to respond.

In response to a question from Senator Wilson, Gen. Heltzel stated that the biggest threat would be something flying in on an airplane and spreading very quickly, secondly a terrorist threat with a low yield nuclear capability, and thirdly, the chemical stockpile in Madison County.

In response to a question from Representative Riner, Gen. Heltzel stated that Emergency Management and the National Guard are preparing themselves to manage an incident without computers and modern communications. Gen. Tonini added that the Emergency Operations Center and Emergency Management are expanding due to cobbled grants and federal monies without an allocation from the General Assembly to protect issues through modernization.

In response to a question from Senator Stein, Gen. Tonini stated that there is a Kentucky Code of Military Justice that needs to be rewritten because it has not been revised since 1986. Steve Bullard stated that the National Guard Bureau's legal office has developed a model state code of military justice that can be used as a basis for the update.

There being no further business, the meeting adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes of the 9th Meeting
of the 2011 Interim
October 18, 2011

Call to Order and Roll Call

The 9th meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, October 18, 2011, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: John Hicks, Deputy Director, Governor's Office for Policy and Management; Brian Simons, Department of Military Affairs; Benjy Kinman and Mark Mangeot, Department of Fish and Wildlife; Charles Bush, Director, Division of Real Properties, Finance and Administration Cabinet; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Tom Howard, Executive Director, and Brett Antle, Deputy Executive Director, Office of Financial Management.

LRC Staff: Kristi Culpepper and Jennifer Luttrell.

Approval of Minutes

Senator Carroll made a motion to approve the minutes of the September 27, 2011, meeting. The motion was seconded by Representative Wayne and approved by voice vote.

Information Items

Representative Glenn asked

Kristi Culpepper, Committee Staff Administrator, to present information items. Ms. Culpepper said there were four information items for members to review. The first information item was the quarterly status reports on capital projects from the Finance and Administration Cabinet, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, and Western Kentucky University. The second information item was the quarterly status report on court facility construction projects from the Administrative Office of the Courts. The third information item was the quarterly status report on Information Technology Systems from the Commonwealth Office of Technology. The last information item was a notice of advertisement for leased space for the Commonwealth Office of Technology in Franklin County.

Purchase of Unbudgeted Scientific Research Equipment

Representative Glenn asked Ms. Culpepper to report the first item of new business. Ms. Culpepper said the University of Louisville had purchased two items of unbudgeted scientific research equipment. First, the James Brown Cancer Center purchased an NMR instrument with \$272,000 of gift funds to be used by the Medical Chemistry Program to develop new chemotherapy agents. Second, the Division of Nephrology purchased an LTQ Orbitrap Elite with \$364,681 of general funds. The equipment will be used in studying diseases. No committee action was required.

Project Reports from the Finance and Administration Cabinet

Representative Glenn asked John Hicks, Deputy Director, Governor's Office for Policy and Management, to present three items. The first item was a \$214,800 scope increase for the Department of Military Affairs (DMA) – Renovate Latrines and Cold Storage Building to Field Maintenance Shop #5 Building project. The committee approved this project, which is 100 percent federally funded, in September, with a scope of \$673,000.

In response to a question from Representative Glenn, Mr. Hicks explained that the scope increase was necessary due to unstable soil conditions, which require making adjustments to the foundation. Much of the cost of the project is due to the site rather than the type of project being constructed.

In response to a question from Senator Leeper, Mr. Hicks explained that he verified the conditions for the scope increase with the cabinet and the consultants who discovered the problem.

In response to a question from Representative Wayne, Mr. Hicks said that soil testing occurred coincident with the design of the facility due to the timing of when project funds were available. Mr. Hicks said he would arrange a tour of the facility for members as members requested.

At members' request, Brian Simons from DMA's budget office discussed the project's timeline and construction. Mr. Simons said the scope increase includes a 10 percent contingency, which would be available to address any further problems that arise.

Senator Carroll made a motion to approve the scope increase. The motion was seconded by Senator Leeper and passed by roll call vote. Six members voted affirmatively and one member voted "No." The revised project scope is \$887,800.

The second item Mr. Hicks presented was a \$216,000 scope increase for the \$750,000 Department of Military Affairs – Lexington National Guard Armory Modular Expansion project. This project was approved by the committee in August and, including the scope increase, will be paid 91 percent from federal funds and 9 percent from restricted funds. Mr. Hicks said the scope increase was necessary due to changing the project design from a second story addition to a first story addition.

In response to a question from Representative Wayne, Mr. Hicks said the project would make room for some of the fire brigade's equipment and provide administrative space.

Senator Carroll made a motion to approve the scope increase. The motion was seconded by Representative Damron and passed unanimously by roll call vote. The revised project scope is \$966,600.

The third item Mr. Hicks presented was a report of a pool project in excess of \$600,000. The project involved the purchase of 2,497 acres of land for \$6.6 million for the Department of Fish and Wildlife. Funding for the project came from \$3 million of Fish and Wildlife Land Acquisition Pool funds and \$3.6 million from Fees-in-Lieu of Stream Mitigation funds.

In response to questions from Representative Glenn, Mr. Hicks said he did not know how much money the land acquisition would be removing from the tax rolls. Benjy Kinman, Commissioner's Office, Department of Fish and Wildlife, and Mark Mangeot, Legislative Liaison, Department of Fish and Wildlife, said they would supply the tax assessment value of the property to the committee.

In response to another question from Representative Glenn, Mr. Mangeot said the department had not discussed the impact that removing

the land from the tax rolls would have on local school districts with the Department of Education.

In response to a question from Representative Damron, Mr. Kinman said the department owns in deed around 133,000 to 145,000 acres of land in the state. Representative Damron said he was also concerned with the impact the department's land acquisitions have on school funding. No committee action was required.

Lease Reports Submitted by the Finance and Administration Cabinet

Representative Glenn asked Charles Bush, Director, Division of Real Properties, Finance and Administration Cabinet, to present two lease modifications under \$50,000. The first lease modification was for the Commonwealth Office of Technology in Franklin County (PR-3451) to make improvements at its property at 101 Commerce Drive in Frankfort. The improvements involved installing a double door between the office and warehouse spaces in the building. Two estimates were obtained and the lower bid was accepted. Building modification costs of \$1,495 will be amortized through the lease expiration date of June 30, 2013.

The second lease modification was for the Cabinet for Health and Family Services (CHFS) in Larue County (PR-3912) to make improvements at its property at 105 Howard Street in Hodgenville. The improvements involved installing an exterior security door, access control devices, and other electrical items. Two estimates were obtained and the lower bid was accepted. Building modification costs of \$1,566 will be amortized through the lease expiration date of June 30, 2013.

Representative Wayne requested that the cabinet provide the committee with a status report on the security improvements that have been made so far to CHFS facilities and improvements that still need to be made. Mr. Bush said the cabinet would provide the report. No committee action was required.

Report from the Office of Financial Management

Representative Glenn asked Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority, to present three items. The first item was an \$823,900 Fund C loan to the Warren County Water District for the Buchanon Park Sewer Line Extension project. The 20-year loan will have an interest rate of 3 percent and estimated annual payments of \$56,729.

Senator Leeper made a motion to approve the loan. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

The second item was an \$8 million

increase to an existing \$16 million Fund F loan to the Northern Kentucky Water District in Kenton County for its advanced treatment project at the Fort Thomas Water Treatment Plant. The 20-year loan will have an interest rate of 2 percent and estimated annual payments of \$1,521,869.

Representative Wayne made a motion to approve the loan increase. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

The third item was a line-item grant for the City of Flatwoods in Greenup County. No committee action was required.

Representative Glenn asked Brett Antle and Tom Howard to present five items. The first item was the State Property and Buildings Commission Revenue Refunding Bonds, Project No. 101, new bond issue. This bond issue will refund \$91.6 million of outstanding bonds to provide an estimated \$7.61 million in net present value savings for the General Fund. The bonds were expected to be sold on November 2. Morgan Stanley was the underwriter for the transaction.

In response to a question from Representative Wayne, Mr. Antle said this transaction was a typical economic refunding, not a debt restructuring. He explained that in an economic refunding, new bonds are sold that mature in the same fiscal year as the bonds that are being refunded. The transaction produces a savings because the new bonds have a lower interest rate than the bonds being refunded. Mr. Antle said that, in a restructuring, bonds are sold that mature in a future fiscal year and the proceeds are used to pay interest and principal on a bond that matures in the current fiscal year, which produces a budgetary savings.

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

The second item was the State Property and Buildings Commission Taxable Road Fund Revenue Refunding Bonds, Project No. 73 (Fourth Series), new bond issue. This bond issue will advance refund \$41.27 million of outstanding bonds to provide approximately \$3.4 million in net present value savings for the Road Fund. The bonds were expected to be sold on November 2. Morgan Stanley was the underwriter for the transaction.

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

The third item was the Eastern Kentucky University General Receipts Bonds, 2011 Series A, new bond

issue. This bond issue will provide an estimated \$21.5 million to finance the construction of new student housing. The bonds were expected to be sold on November 17 on a competitive basis. Hilliard Lyons was the financial adviser on the transaction and Peck, Shaffer, and Williams served as bond counsel.

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

The fourth item was the Western Kentucky University General Receipts Refunding Bonds, 2011 Series A or General Receipts Bonds, 2011 Series A, new bond issue. Mr. Antle explained that the bond issue would take one of two structures depending on market conditions. The bonds would either provide \$8 million of new money for the Downing University Center renovations authorized in the current budget, or they would refund approximately \$7.1 million of outstanding debt. The bonds were expected to be sold on October 25 on a competitive basis. Hilliard Lyons was the financial adviser on the transaction and Peck, Shaffer, and Williams served as bond counsel.

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

The fifth item was new school bond issues with School Facilities Construction Commission (SFCC) debt service participation. Mr. Antle presented 13 new school bond issues with an estimated par amount of \$76.8 million. The estimated SFCC share of debt service totaled \$2.99 million and the estimated local share of debt service totaled just over \$4 million.

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

New Local School Bond Issues Without SFCC Debt Service Participation

Representative Glenn asked Ms. Culpepper to report new local school bond issues. Ms. Culpepper said four local school bond issues were reported to the committee during the past month. One bond issue will provide new money to construct an elementary school and the other three are refunding issues. There were no tax increases associated with any of the bond issues and the debt service was 100 percent locally funded.

With there being no further business, the committee adjourned at 2:05 PM.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting
October 11, 2011

Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 11, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mike Carr, Dr. Kim Walters-Parker, Alicia Sneed, Educational Professional Standards Board; Mark Sipek, Personnel Board; Dinah Bevington, Personnel Cabinet; Jonathan Buckley, David Cox, State Board of Licensure for Professional Engineers and Land Surveyors; Mark Brengelman, Becky Klusch, Board of Physical Therapy; Mark Brengelman, Scott Brinkman, Kentucky Applied Behavior Analyst Licensing Board; Tamara McDaniel, Peggy Lacy Moore, Robert W. Powell, Janet Vogt, Board of Respiratory Care; John Brunjes, Kristina Brunjes, Jon Gassett, Karen Waldrop, Margaret Everson, Department of Fish and Wildlife Resources; Anna M. Lucio, Mac Stone, Clint Quarles, Department of Agriculture; Amy Barker, Department of Corrections; Graham Gray, William Herald, Morgain Sprague, Heather Wagers, Kentucky State Police; Sandy Chapman, DJ Wasson, Maggie Woods, Department of Insurance; Dawn Bellis, Jerry Lunsford, George Mann, Department of Housing, Buildings and Construction; Elizabeth Caywood, Lee Etta Cummings, IJ Eneje, Vonia Grabeel, Matt McKinley, Stuart Owen, Ken Spach, Marissa Vega Velez, Chandra Venettozzi, Cabinet for Health and Family Services; Rick Allen, Bluegrass Sportsman's League, Anderson County Sportsman's Club, Ky Grouse Hunter's Association; Carol Beese, Kentucky Ornithological Society; Carl Boes, KARP; Pete Blandford, Quality Deer Management Association, James Daniel, Self-employed; Robert Fraley, KOSA; Chet Hayes, United Trappers of Kentucky; Mark Nethery, League of Ky Sportsman; Joe Rossler, 5th District Federation of Lock 5; Dan Saunders, Campbell County Game and Fish; Bobby Spencer, Ky NWTF; Barry Welty, Kentucky Ducks Unlimited Conservation; and Jon Woodall, Kentucky Fish and Wildlife Foundation.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 11, 2011, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Teaching Certificates

16 KAR 2:040. Interdisciplinary early childhood education, birth to primary. Mike Carr, director of certification; Dr. Kim Walters - Parker, director of educator preparation; and Alicia Sneed, director of legal services, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Educator Preparation

16 KAR 5:040. Admission, placement, and supervision in student teaching.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to create a new Section 8 to incorporate by reference the Instructions for Electronic Payment Vouchers. Without objection, and with agreement of the agency, the amendments were approved.

Alternative Routes to Certification

16 KAR 9:090. University-based alternative certification program for teachers of world languages.

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 through 4 and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL BOARD: Board

101 KAR 1:375. Employee grievances and complaints. Mark Sipek, executive director, represented the board.

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

RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to create a new Section 5 to incorporate by reference the updated Grievance Form. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:046. Applications, qualifications and examinations. Dinah Bevington, general counsel, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 4, 9, and 12 and the application form incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 2:056. Registers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph, Sections 2 and 8, and the application form incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 2:105. Sick leave sharing procedures.

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

101 KAR 2:106. Annual leave sharing procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; and (2) to amend Sections 2, 3, and 4, and the application form incorporated by reference, to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: State Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:192. Continuing professional development for professional land surveyors. Jonathan

Buckley, general counsel, and David Cox, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 5 to correct minor drafting errors. 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, and Mark Brengelman, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendment: to amend Section 4 to correct minor drafting errors. Without objection, and with agreement of the agency, the amendment was approved.

Board of Respiratory Care: Board

201 KAR 29:050. Continuing education requirements. Tamara McDaniel, RRT, chair; Robert W. Powell, M.D., board member; and Janet Vogt, RRT, board member, represented the board.

In response to questions by Representative Ford, Ms. McDaniel stated that there was a national association of respiratory care and that the board presented this administrative regulation to the state association at the state meeting. There were no negative comments from the association regarding the proposal. The previous version of this administrative regulation established that a maximum of fifteen (15) percent of licensees would be audited. In order to raise standards and approximate the requirements of surrounding states, this administrative regulation amended the fifteen (15) percent to be a minimum, rather than a maximum.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 5, 6, and 8 through 11 to clarify requirements; (2) to amend Section 6 to specify that academic courses shall be post-approved after completion of the course to qualify as continuing education; and (3) to amend the STATUTORY AUTHORITY paragraph and Sections 1, 3, 4, 5, 7, 8, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Applied Behavior Analysis Licensing Board: Board

201 KAR 43:010 & E. Licensed behavior analyst or licensed assistant behavior analyst: application procedures. Scott Brinkman, board member, and Mark Brengelman, assistant attorney general, represented

the board.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the form incorporated by reference for conformity. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 43:020 & E. Temporary licensed behavior analyst or temporary licensed assistant behavior analyst: application procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the form incorporated by reference for conformity. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 43:030 & E. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 2 to specify that the licensure renewal fee for each subsequent renewal period for licensed assistant behavior analysts shall be \$200; and (3) to amend Section 3 to specify that the nonrefundable application review fee and the temporary licensure fee for a two (2) year temporary licensure period for assistant behavior analysts shall each be \$100. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 43:040 & E. Code of ethical standards and standards of practice.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4, 7, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game hunting requirements. Margaret

Everson, assistant attorney general; Jon Gassett, commissioner; and Karen Waldrop, director, Wildlife Division, represented the department. Chet Hayes, executive director, United Trappers of Kentucky; Mark Nethery, president, League of Kentucky Sportsmen; and Barry Welty, chair, Kentucky Ducks Unlimited Conservation, appeared in support of this administrative regulation. Carol Besse, president, Kentucky Ornithological Society, and James Daniel, hunter, appeared in opposition to this administrative regulation.

Mr. Nethery stated that he was the president of the League of Kentucky Sportsmen and was appearing on behalf of approximately twenty (20) organizations. He stated that statistics showed there were about 60,000 sandhill cranes, which was plenty for continued population protection. The sandhill crane had historically been classified as a game bird in Kentucky. Currently, the sandhill crane was legally huntable in thirteen (13) other states. U. S. Fish and Wildlife developed a management plan that allowed for 800 birds to be taken yearly in Kentucky; however, this administrative regulation was conservative and allowed for 400 birds to be taken yearly. The impact on other species was addressed in this administrative regulation by requirements for a species identification test and by establishing the hunting season after the whooping crane migration. Sportsmen paid for conservation in Kentucky, and no species failed because of harvesting after a hunting management plan was developed.

Mr. Hayes, a Northern Kentucky outdoorsman and hunter, stated that the purpose of the Kentucky Department of Fish and Wildlife Resources was to balance and regulate the uses of Kentucky's natural resources. This had to be accomplished with limited funding. He believed that a seasonal hunt of the sandhill crane would yield the same success as the elk program, resulting in restoration of the species.

Mr. Welty stated that Kentucky Ducks Unlimited Conservation fully supported this administrative regulation.

In response to a question by Co-Chair Bowen, Mr. Hayes stated that a prospective hunter of the sandhill crane was first required to pass a species identification test to avoid impact on other species, such as the great blue heron or the whooping crane. Mr. Nethery added that the sandhill hunting season was after the whooping crane had already migrated out of Kentucky.

Ms. Besse stated that vast numbers of people were opposed to this administrative regulation; however, they had not come to this

Subcommittee meeting because they had been disheartened and fatigued by the process and how the Department for Fish and Wildlife Resources had framed their concerns.

Co-Chair Bowen stated that the promulgation process for administrative regulations was established by KRS Chapter 13A. He asked that comments be concise and limited to the subject matter, rather than the promulgation process required by law.

Ms. Besse stated that the Department for Fish and Wildlife Resources first proposed this policy in June 2010; however, the policy was not available to the public until January 2011. The department framed the issue as a pro-hunting versus anti-hunting and anti-firearm discussion. Opposition to this administrative regulation was not anti-hunting or anti-firearm. The department distorted and misrepresented opposition to hunting the sandhill crane. True public discussion never took place. This administrative regulation was flawed public policy. This Subcommittee meeting was the first neutral arbitration of this administrative regulation because other meetings were held by the department and were biased.

Co-Chair Bowen stated that Subcommittee members followed this issue throughout the promulgation process and had also received numerous comments from constituents. Ms. Besse clarified that this Subcommittee had properly followed the administrative regulation process as established by law, but that other meetings conducted by the Department for Fish and Wildlife Resources were not neutral. Ms. Besse stated that she was not anti-hunting.

Mr. Daniel stated that he was not anti-hunting, but he was concerned about the potential for misidentification of species. He believed that the Department for Fish and Wildlife Resources mischaracterized opposition to the hunting of the sandhill crane. He stated that science did not support hunting the sandhill crane, and the department's funding may be negatively affected by this decision. Some groups that currently funded the department may choose no longer to do so because of their opposition to the hunting of the sandhill crane. Thirty-five (35) percent of the department's funding comes from non-hunting sources. Hunting was expected to decline in Kentucky. Mr. Daniel asked rhetorically how the department would fund conservation if hunting declined in Kentucky. Wildlife viewing, by the department's own data, was the strongest growing portion of wildlife-related activity, and the sandhill crane was the most watchable bird in Kentucky.

Senator Givens stated that this Subcommittee was neutral and provided a voice to all interested parties. In response to questions by Senator Givens, Ms. Besse clarified that the department's position, not the promulgation process, was where her secondary opposition lie. This Subcommittee did not violate the statutory process established in KRS Chapter 13A. Ms. Besse believed that the department never intended to entertain public comments in a serious manner. Mr. Daniel stated that the department mischaracterized the opposition's concerns as being anti-hunting and anti-firearm, rather than presenting the true concern regarding the protection of the sandhill crane. He stated that the department issued fliers describing opposition to this administrative regulation as anti-hunting and anti-firearm.

Mr. Gassett stated that the Department for Fish and Wildlife Resources followed the promulgation process established in KRS Chapter 13A and held a public hearing prior to this administrative regulation being filed with LRC. The department also met independently with the Sandhill Crane Coalition and the Kentucky Ornithological Society. He stated that the department promoted hunting, which was the agency's main task. He disputed Mr. Daniel's statement that thirty-five (35) percent of the department's funding came from non-hunting sources by explaining that certain miscellaneous fund sources related indirectly to hunting, such as licensing of equipment. Less than \$100,000 came from non-hunting sources. The department received hundreds of letters from animal rights groups, which were usually considered anti-hunting; therefore, the department did characterize this administrative regulation as a pro-hunting issue. This administrative regulation established a very conservative hunting season with safety triggers to protect the species from misidentification. Additionally, annual review of the program was mandatory, and scientists determined that the sandhill crane population would continue to grow if Kentucky allowed this administrative regulation to become effective.

In response to questions by Co-Chair Bell, Mr. Gassett stated that there were refuge sites established in this administrative regulation to protect crane-roosting areas. These protected areas were streams that flowed into Barren Lake.

Co-Chair Bell stated that the Department for Fish and Wildlife Resources had done a great job with new hunting programs and with restoring other species, such as the wild turkey. In response to a question by Co-Chair Bell, Mr. Gassett stated

that thirty-one (31) states constituted the flyway zone for the sandhill crane. Many citizens of states in the flyway zones other than Kentucky submitted comments regarding this administrative regulation. Some comments supported this administrative regulation, and some were opposed to it. Most of the comments came from Tennessee.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Division of Agriculture Marketing: Ginseng

302 KAR 45:010 & E. Ginseng, general provisions. Clint Quarles, staff attorney; Anna M. Lucio, marketing specialist; and Mac Stone, executive director, represented the division.

In response to questions by Senator Givens, Mr. Stone stated that initial drafting of this administrative regulation began in 2004 and 2005 after a sting operation illuminated problems with the previous version of this administrative regulation. The requirements were not practically enforceable and were not specific enough. The ginseng-harvesting industry brought millions of dollars to rural parts of Kentucky and worked with the department in developing this administrative regulation.

In response to questions by Representative Ford, Ms. Lucio stated that this administrative regulation required licensing for buyers only. Hunters had season changes to protect long-term sustainability of ginseng, and the plants had to be a minimum age before harvesting. The division was developing educational materials to assist in enforcement of this administrative regulation. It took seven (7) to ten (10) years from the time of planting to harvesting.

In response to a question by Representative Lee, Ms. Lucio stated that most ginseng harvested in Kentucky was exported to Hong Kong. The current market value for ginseng was \$400 per dry pound.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE for clarification; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to include additional relevant citations; (3) to amend Section 7 to establish the filing deadline for the required purchase forms; (4) to amend Section 9 to specify appeal procedures if cited for a ginseng regulatory violation; (5) 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 (6) to amend Sections 1 through 11 to clarify requirements and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and

with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Sex Offender Risk Assessment Advisory Board: Office of the Secretary

501 KAR 6:220. Treatment for sex offenders. Amy Barker, assistant general counsel, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 4 to clarify that the providers shall provide at a minimum the number of treatment sessions listed; and (2) to amend Sections 2 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of State Police: Concealed Deadly Weapons

502 KAR 11:010. Application for license to carry concealed deadly weapon. Graham Gray, attorney; Heather Wagers, staff attorney; and Morgain Sprague, legal counsel, represented the department.

In response to a question by Representative Ford, Mr. Gray stated that there was an identification card for retired officers. The card was regulated by the federal program. Amendments were made to this administrative regulation in response to program changes at the federal level, including that "duration of employment" included events such as resignation, as well as retirement.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to delete the requirement that the application shall be completed and signed in the presence of the sheriff; and (2) to amend Section 12 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

502 KAR 11:050. Updating, replacement, and renewal of license to carry concealed deadly weapon.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to delete the requirements that the change of personal information form and the request for duplicate license form shall be completed and signed in the presence of the sheriff; (2) to amend Section 7 to delete the requirement that a late fee waiver shall be requested by a licensee whose license expired during an overseas military deployment; and (3) to amend Sections 1, 2, and 5 through 8 to comply with the drafting and formatting requirements of KRS

Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Technical Services Division: Law Enforcement Officers Safety Act of 2004

502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. Graham Gray, attorney, and Heather Wagers, staff attorney, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 to delete the requirement that the application form shall be completed in the presence of the sheriff; and (2) to amend the RELATES TO paragraph and Sections 1, 5, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

502 KAR 13:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (LEOSA), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 6 to clarify requirements. Without objection, and with agreement of the agency, the amendments were approved.

502 KAR 13:070. Applicant photograph requirements for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (LEOSA), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Agent Licensing Division: Agents, Consultants, Solicitors, and Adjusters

806 KAR 9:020. False or deceptive names, titles, prohibited. Sandy Chapman, assistant director; D. J. Wasson, staff assistant; and Maggie Woods, director of agent licensing, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add statutory citations; and (2) to amend Sections 1, 2, 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the

amendments were approved.

Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Elevator Safety

815 KAR 4:010 & E. Annual inspection of elevators. Dawn M. Bellis, general counsel, and George Mann, deputy commissioner, represented the division.

In response to questions by Representative Ford, Ms. Bellis stated that the inspection fee was for initial installation only, which was usually requested by the homeowner or installing contractor. Although it would increase fees, a homeowner may want the inspection for safety.

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

815 KAR 4:025 & E. Permit fees for new and altered elevators.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation; and (2) to amend Sections 1, 2, 3, 5, 6, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:030 & E. Elevator contractor licensing requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 8 to revise the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:040 & E. Elevator mechanic licensing requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; (2) to amend Sections 1, 2, 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 7 to revise the form incorporated by

reference. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:050 & E. Continuing education requirements for elevator contractors and elevator mechanics.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:060 & E. Requirements for approval of continuing education courses and providers.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 6 to revise the forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:070 & E. Fees and refunds.

Kentucky Building Code

815 KAR 7:120. Kentucky Building Code.

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

Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:007. Kentucky Board of Heating, Ventilation, and Air Conditioning (HVAC) contractors budget review and responsibility.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and

function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

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

900 KAR 6:030. Certificate of need expenditure minimums. Chandra Venettozzi, health data administrator, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 1 to correct typographical errors. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:080. Certificate of Need emergency circumstances.

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

Department for Public Health: Division of Public Health Protection and Safety: Mobile Homes and Recreational Vehicles Parks; Facilities Standards

902 KAR 15:020 & E. Recreational vehicles. Vonja Grabeel, supervisor, Facilities Section, and Ken Spach, branch manager, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 4 to update lighting requirements commensurate with recent technological advances; (4) to amend Sections 1 through 18 and 20 through 23 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (5) to amend Sections 2, 3, 5, 7 through 12, and 20 to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Radiology

902 KAR 100:019. Standards for protection against radiation. Matt McKinley, director, Kentucky Radiation Ion Program, and Marissa Vega Velez, radiation health specialist, represented the division.

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

AUTHORITY paragraph to delete a superfluous statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2, 3, 4, 6, 9 through 13, 16, 18 through 21, 24 through 36, 38 through 41, and 43 through 45 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:022. Licensing requirements for land disposal of radioactive waste.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 1, 2, 3, 6, 7, 14, 27, 32, and 33 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:040. General provisions for specific licenses.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 5, 12, 13, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 16 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:042. Decommissioning and financial surety.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend Sections 8, 11, 14, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 11 to correct a deadline; and (4) to amend Section 14 to correct a unit of measurement. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:100. Industrial radiography.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY

paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 12, 13, 14, 16, and 21 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:595 & E. Model Waiver II service coverage and reimbursement. Stuart Owen, regulation coordinator, 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 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:050. Time and manner of payments. Elizabeth Caywood, internal policy analyst, represented the division.

Division of Protection and Permanency: Child Welfare

922 KAR 1:490. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, and reporting requirements.

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

The following administrative regulations were deferred to the November 7, 2011, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:180. Employee performance evaluation system.

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

103 KAR 8:010. Watercraft allocation.

GENERAL GOVERNMENT CABINET: Real Estate Appraisers Board: Board

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

ENERGY AND ENVIRONMENT CABINET: Office of the Secretary: Kentucky State Nature

Preserves Commission: Commission 400 KAR 2:090. Management, use, and protection of nature preserves.

TRANSPORTATION CABINET: Office of Transportation Delivery: Mass Transportation

603 KAR 7:080. Human service transportation delivery.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Developmental Health, Developmental and Intellectual Disabilities: Division of Behavioral Health: Substance Abuse

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. Lee Etta Cummings, DUI program manager, and Ijeoma Eneje, regulation coordinator, represented the division. Carl Boes, Kentucky Association of Regional Providers, appeared in opposition to this administrative regulation.

In response to questions by Representative Lee, Ms. Cummings stated that the changes to this administrative regulation were requested by the state auditor in order to make administrators more accountable. Important changes included a one-time six (6) hour mandatory training for program administrators and a system to provide feedback to assess the training program. Telecommunication was prohibited as a method to educate DUI clients because there was not conclusive evidence that telecommunication training was effective for behavioral health. The training was offered regionally by request of the program administrators, and the training personnel from the division traveled where needed to provide reasonably convenient training to program administrators. There were currently 118 DUI programs available at over 280 locations in Kentucky.

In response to a question by Senator Pendleton, Ms. Cummings stated that someone with a DUI conviction in Tennessee or another state, upon returning to Kentucky, would be under the jurisdiction of the Transportation Cabinet for determination if all penalties had been resolved. The determination was typically based on if the other state's requirements were commensurate with Kentucky standards. She stated that one of the previously approved curricula was deleted because it was not an evidence-based practice curriculum. The division presented information about the regulatory changes to advisory councils and at the statewide annual meeting. Strong support was received from most of the provider base.

In response to questions by Senator Givens, Ms. Cummings stated that without these amendments,

this administrative regulation did not place a limit on the number of educators a supervisor was allowed to supervise. The state auditor noted this as a problem during the initial audit. Facilities were required to have at least one (1) program administrator and to ensure training and credentials for all providers. Facilities were also required to have at least one (1) clinical services supervisor. The change to require a supervisor to supervise a maximum of six (6) educators was not expected to create new cost. The agency received five (5) public comments during the public comment period from one individual. One (1) comment addressed telecommunications. The agency required DUI intervention for offenders in person because scientific research was inconclusive as to efficacy. Interpersonal skills were omitted in a telecommunication session, but they were crucial to the success of the intervention. A second comment addressed limiting the number of educators a supervisor could supervise. This change was requested by providers and was based on legal precedents and on empirical workload manageability. The third comment addressed the six (6) hour training requirement. The fourth comment addressed the policy for a DUI offender who is impaired at the intervention session. The changes establish a procedure for dealing with such a situation. The last comment addressed the patient sign-in sheet. The sign-in sheet allowed the agency to enforce patient limits. Ms. Cummings stated that, without the proposed amendments, this administrative regulation allowed DUI intervention by telecommunication, rather than in person. There were two (2) facilities that the agency knew of who used telecommunications for this purpose. The agency was concerned that allowing DUI intervention via telecommunication may undermine the effectiveness of treatment. For example, it may be impossible in a telecommunication intervention session to determine if the offender was currently impaired.

In response to a question by Senator Pendleton, Ms. Cummings stated that it took so long to propose amendments to this administrative regulation after the state audit because it took two (2) years to gather feedback and data. Changes included changing the curriculum requirements to scientifically based standards, which took time to develop. Additionally, an advisory committee was formed. Most feedback had been positive.

In response to questions by Co-Chair Bell, Ms. Cummings stated that "inappropriate behavior" had been amended to mean behavior that violated the code of conduct. Someone

from each program had to be certified through a one-time six (6) hour training that would be provided regionally across Kentucky. The training was free, and the agency reimbursed attendees for travel costs. The agency shifted responsibility for out-of-state DUI issues to the Transportation Cabinet. The purpose of DUI offender assessment was to impact intervention providers to provide accountability to ensure effective intervention. Each year the agency revoked certification of approximately three (3) providers. Some of the assessment changes were requested by providers.

Mr. Boes stated that DUI intervention should be allowed to be performed via telecommunication. Just because telecommunication had not been studied to determine efficacy did not mean that it was ineffective. Medicaid reimbursed for telecommunications psychiatry, known as teletherapy. This therapy was comparable to DUI intervention. Universities regularly granted diplomas based solely on telecommunication education.

In response to a question by Senator Pendleton, Mr. Boes stated that some providers had gotten a state grant for telecommunications equipment; however, it was not specific to DUI intervention.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend the items incorporated by reference to conform to this administrative regulation's provisions. 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, as amended, to the November meeting of the Subcommittee in order for the agency to consider amending this administrative regulation further to grandfather facilities that already used telecommunications for DUI intervention. These facilities would serve as a pilot study to get adequate data to determine if this method was effective. Ms. Cummings agreed to the deferral. Without objection, and with agreement of the agency, this administrative regulation, as amended, was deferred to the November meeting

of the Subcommittee.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:420. Child fatality or near fatality investigations.

The Subcommittee adjourned at 3:30 p.m. until November 7, 2011.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the Meeting

October 11, 2011

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, October 11, 2011, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Jack Westwood, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Vernie McGaha, Gerald A. Neal, and Ken Winters; Representatives Bill Farmer, and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham.

Guests: Keith White, Office of Education Accountability; Wayne Young, Kentucky Association of School Administrators; Jim Thompson, Education and Workforce Development Cabinet; Mary S. Buckley, Department of Juvenile Justice; and Sue Cain, Council on Postsecondary Education.

LRC Staff: Sandy Deaton, Ben Boggs, Jo Carole Ellis, Ken Warlick, and Lisa Moore.

Approval of Minutes

Representative Edmonds moved for approval of the minutes from the June 13, 2011, and the September 13, 2011, meetings and Senator McGaha seconded the motion. The minutes were approved by voice vote.

Kentucky's No Child Left Behind and Kentucky Core Content Tests data results for 2010-2011

Terry Holliday, Commissioner, Kentucky Department of Education (KDE), reported the final year of results for the Kentucky Core Content Test (KCCT). He noted that KDE has asked for a waiver from the federal No Child Left Behind (NCLB) reporting requirements. In a waiver to be submitted on November 14, 2011, KDE will ask for flexibility based on Kentucky's new accountability model outlined in Senate Bill 1.

Mr. Holliday said the data show little improvement in grades three through eight. Significant improvement was made in Kentucky's high schools and he attributes this to House Bill 176, enacted in the 2010 regular session that defined persistently low achieving

high schools and challenged them to improve. Funding is a big concern going forward for assisting the low performing high schools and this will be reflected in KDE's budget request. Funds designated for the highly skilled educators were previously utilized but this money was eliminated in 2012.

Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE, reported on the percent of students designated as proficient and distinguished by grade span and year on the KCCT in the areas of reading, mathematics, science, and social studies. The detailed charts are located in the meeting materials in the Legislative Research Committee (LRC) library. Mr. Draut said the 2011 NCLB results reported Kentucky meeting 13 of 25 target goals, which is equivalent to 52 percent. Since schools must make 100 percent of their target goals to qualify as making adequate yearly progress (AYP), Kentucky did not make its overall AYP benchmark.

In response to a question from Representative Farmer, Dr. Holliday said it is a national trend that student performance levels are the highest in elementary school and the lowest at high school levels. Dr. Holliday attributed this to elementary students trying to please their teachers and this does not occur as much at middle and high school levels. In the upper grades, students often perform better when student accountability is associated with the assessment. He said there are typically 25 percent fewer students in high school and some of those may have been high performers. Principals and teachers have communicated that the new accountability model should help address this issue.

Mr. Draut said there were 245 Title I schools receiving consequences in 2011 compared to 134 schools in 2010. It is ironic that as student scores improve, more Kentucky schools receive consequences. He noted that 122 Title I school districts received consequences compared to 93 in 2010. There were 168 non-Title I schools eligible for state assistance in 2010 and 206 in 2011.

Rhonda Sims, Director, Division of Support and Research, Office of Assessment and Accountability, KDE, said Kentucky students improved their mathematics scores on the Iowa Tests of Basic Skills from 2010 to 2011, but reading scores varied and decreased in third and fifth grades. However, Kentucky students are performing above the national average, which is 50 percent.

Ms. Sims said Kentucky is beginning to make the transition to the new accountability system and this requires looking at gaps in comparison to goals. Kentucky's goal is for all students to reach 100 percent

proficiency in reading and math. She said most reporting groups showed a small closing of the gap, or slight improvement, between students testing at proficient and distinguished in 2010 to 2011. However, there was no change in the scores of Asian students, students with limited English proficiency, or students with disabilities.

Ms. Sims said all students are required to take the ACT in grade 11. The number of students tested in 2011 increased substantially from 2008 (42,922 to 44,053 students). Students tested in 2011 scored higher in English, mathematics, reading, and science. The overall student composite score for the ACT increased from 18.3 in 2008 to 18.8 in 2011.

Ms. Sims said the ACT will be used in the new accountability program to measure college and career readiness. Students must meet the benchmarks on the ACT test determined by Kentucky's Council on Postsecondary Education (CPE) to be college ready. Students will also determine their college readiness by meeting placement test benchmarks. The career readiness benchmarks are divided into academic and technical career ready. Students can meet the career ready academic portion through the Armed Services Vocational Aptitude Battery (ASVAB) or the ACT Work Keys, which includes applied math, locating information, and reading for information. The career technical requirements can be met through the Kentucky Occupational Skill Standards Assessment (KOSSA) assessment or industry certificates. She said 15,746 graduates are college and/or career ready, or 38 percent, which increased from 34 percent in 2010.

In response to a question from Representative Farmer, Dr. Holliday said students score higher on the ACT because it affects them directly, unlike the KCCT scores. He noted that KDE strongly suggests schools and districts use the ACT end-of-course test scores to count for 20 percent of the student's final grade.

Responding to questions from Representative Graham, Dr. Holliday said the EXPLORE test is administered to students in the eighth grade as a predictor on how the students will perform on the ACT. It also helps guide their high school coursework to align with career goals. The PLAN is administered in the tenth grade as another check to ensure students are on target to become college ready. All students are required to take the ACT in eleventh grade. Kentucky has filed for a waiver to bypass annual yearly progress benchmarks required in the NCLB Title I program. He expects a decision on the waiver to arrive by mid-January based on the results of the 2011-2012 testing.

Mr. Draut said the end-of-course test can be taken when the student completes the course. KDE has the test prepared, and some students have already begun taking the exam during the testing window of October 1 through November 15, 2011.

In response to a question from Senator McGaha, Mr. Draut said KDE is working with the ACT on a weekly basis to reach an agreement on how Kentucky can get files of Kentucky public school students on Work Keys back from the ACT. He said there are issues with the ACT protecting the confidentiality of its adult students in the database.

Dr. Holliday said KDE has been transparent about these numbers and issues and will be prepared to include them in the accountability model in 2012. He and Dave Adkisson, Executive Director, Kentucky Chamber of Commerce, will visit some of the larger chamber of commerces later this year to encourage businesses to support schools in administering the Work Keys assessment to seniors. The Workforce Investment Board helped fund some of the testing last year. Senator McGaha said several schools in his district tested in the top ten in the state on the Work Keys assessment and were very disappointed the scores were not counted.

Deferral of Administrative Regulation

Senator McGaha moved to defer 703 KAR 5:200, and Representative Farmer seconded the motion. The motion was approved by voice vote.

Office of Education Accountability's Reports

Keith White, Research Analyst, Office of Education Accountability (OEA), said Kentucky is in good shape with test security as it moves into the new accountability model. There are no widespread problems. Senate Bill 1 relies heavily on assessments, and Kentucky needs a system that ensures the information is reliable and valid. He recognized the National Technical Advisory Panel on Accountability and Assessment (NTAPPA) as being helpful in recommendations on test security, and said that one panel member had written a book on the subject.

Mr. White said standards are developed by trained professionals before testing begins. KDE partners with high quality education testing vendors. The tests and assessments are designed to align with standards and items that are field tested to establish reliability and validity. Alignment and validity studies are ongoing as required by KRS 158.6453(17).

Mr. White said district and building assessment coordinators and proctors receive training on administering tests and assessments,

and on other processes related to test administration, submission, and report. Test administrators must be trained on and sign the assessment code of ethics. Education professionals, students, parents, and stakeholders may report suspected testing code violations to KDE's testing allegation coordinator.

Mr. White said draft score reports are reviewed by KDE and schools to correct scoring and submission errors after testing. Final reports are issued to schools and the public.

Mr. White discussed some specific recommendations in the report related to behavior, data, and testing events. Recommendations 3.1 to 3.3 are located in the meeting materials located in the Legislative Research Commission (LRC) library.

Mr. White said testing allegation categories range from completing exam sections out of order to blatant cheating or inappropriate assistance/intervention from 1996-2009. There were 2,407 reported allegations to KDE; 461 score reductions by KDE; and since 2000, the Education Professional Standards Board (EPSB) opened 91 cases and closed 67 of those. Thirty-five closed cases resulted in dismissal, while the remaining 32 cases were actionable.

Mr. White said outliers can include data points that are atypical or unlikely. Outliers are a good first step and can utilize various statistical methods. He discussed follow-up processes and typical test security audit components. The costs of contracting with a leading United States test security firm can be \$100,000 to \$450,000 for basic to expanded services. Proactivity increases likelihood of cost reduction.

In response to questions from Senator Westwood, Mr. White said most states build in checkpoints for atypical data into the vendor contracts. Other states rely on a third party government agency, but it is not typically performed by KDE staff. Kentucky has not named an entity to provide this service.

Ms. Seiler said Kentucky's test complaints in the past have been submitted to OEA and to EPSB. The testing center performed the investigation. The noted complaint was not detectable by an outlier process, and ACT determined that is was a teacher or administrator error. Teacher and administrator complaints are handled by EPSB, which is good and unique to Kentucky. EPSB conducts administrative hearings to review the evidence, and the board makes the decision as to who is responsible and the appropriate punishment.

Responding to Senator Westwood, Ms. Seiler said consequences should be based on evidence of the particular situation. She said the evidence required to prove cheating is almost

nonexistent. For example, the testing rooms are not filmed. There is no documentary trail to lead specific test scores with certain erasures to individual teachers. These checkpoints have to be built into the system, and this takes time. Linking a teacher number to the testing environment would be ideal. Mr. White said that KDE is looking to include this type of analysis in the new testing agreement with vendors.

Representative Graham said teachers experience low morale at testing time because administrators are nervous disseminating information. He noted the extremes teachers go through to ensure safety measures are in place to prevent cheating in the classroom.

Responding to Representative Graham, Mr. White said cheaters will find a way to cheat regardless of whether the assessments are completed using paper and pencil or online, but this is small number of people. Most educators want to collect the most valid information possible.

In response to a question from Representative Farmer, Mr. White said historical or trend mechanisms need to be incorporated into the new testing model. He noted the baseline for checkpoints is based on the last two years of assessment. The baseline has been established for each test, size, and grade level, and there is an expected mean and outlier threshold that can change each year based on the changed scores.

Responding to Senator McGaha, Ms. Seiler said OEA staff would be talking with EAARS members individually to discuss study topics for 2012. She said one possible topic is addressing the security of student data when testing online. This would include student personal data and test score information.

Brenda Landy, Research Analyst, OEA, said the Kentucky Educational Excellence Scholarship (KEES) study examined the KEES trends relating to goals, specifically college access and achievement, and keeping students in-state for college. She gave an overview of the background of the KEES program and discussed future recommendations. The information can be found in the meeting materials located in the LRC library. Since 2000, KEES program growth has been steady, and \$100 million was disbursed to about 70,000 recipients in 2010.

Ms. Landy noted the KEES' mission has been the subject of controversy and confusion at times, in part because ensuring access is the only purpose explicitly mentioned in statute. Some academics and policy analysts argue that performance-based programs are far less efficient than need-based programs. One

recommendation was that the General Assembly should consider adding explicit statements of these goals to the statute.

Ms. Landy said grading scales vary across school districts. Some policymakers believe that higher standards can equal smaller KEES awards. Others say students earn more in the long run because they are more prepared for college. Grade information in the system lacks standardization and documentation and is unusable in analysis, and there is no ongoing systematic process for ensuring accuracy of the grade point average (GPA) reported for KEES purposes. Specific recommendations were included for these issues in the study and can be found in the meeting materials in the LRC library.

Ms. Landy said many states were concerned about brain drain in the 1990s. This problem was not emphasized in Kentucky, but there was room for improvement. In 1998, 86 percent of freshmen enrolled in Kentucky postsecondary institutions. This improved slightly to 89 percent in 2008. She also noted that students who earned KEES were twice as likely to enroll in college. This drops off after two years and that may be attributed to students earning a two year degree and deciding college was not for them.

Ms. Landy said there are concerns with the "on track to graduate" statutory language and implementation of the program is proving difficult. One issue concerns a mismatch between the definition of "full-time" and the definition of "graduating on time." She said another issue is that institutions lack sufficient data on transfer students. The specific recommendations regarding the "on track to graduate" provision are located in the meeting materials in the LRC library.

In response to questions from Senator Winters, Ms. Landy said "on track to graduate" definitions differ across public institutions and definitions on back-load credit hours are imprecise for transfer students. OEA was unable to obtain definitions used by independent and proprietary institutions. Public institutions need detailed guidance on determining whether students are on track to graduate.

Ms. Landy said KEES does not have an unmet need problem like the College Access Program or the Kentucky Tuition Grant program. She said there is a comparison with KEES and scholarship programs in other states located in Appendix "C" of the study. Ms. Seiler suggested bringing a group together from the Kentucky Higher Education Assistance Authority (KHEAA), KDE, and school districts to look at GPA and grading scale

issues.

Responding to questions from Senator Westwood, Ms. Landy said students have five years to enroll in a Kentucky postsecondary institution for KEES eligibility. For each year students are out-of-state enrolled in non-eligible institutions, they lose a year of KEES eligibility. Most Kentucky postsecondary institutions do not include grades from a prior institution in the GPA calculations for KEES, with Eastern Kentucky University being the exception. Private school students are eligible to earn KEES, but home school students and GED recipients are eligible for the ACT award only.

In response to a question from Representative Farmer, Ms. Rebecca Gilpatrick, Director of Student Aid Services, KHEAA, said that students receive a year for year extension on KEES if they are in active military service. Students can appeal to KHEAA and provide discharge papers.

Responding to Representative Graham, Ms. Landy said students do not get credit for high school courses completed in middle school. She also noted that students who graduate high school in three years lose a year of GPA awards. Hopefully, an admissions officer would recognize this and make up the difference. Representative Graham does not think Kentucky institutions are considering this. Ms. Landy said surrounding states are matching KEES dollars to recruit students.

Senator Winters said his bill on early graduation that will be introduced in the 2012 session will compute the average of the student's three high school years to count as a fourth year. He said this ensures students are not penalized from receiving KEES if they graduate a year early.

Adoption of OEA reports

Senator Westwood said the committee will postpone adopting the OEA reports to the next meeting due to lack of a quorum.

Other Business

Senator Westwood told committee members to submit suggested OEA topics to Co-Chair Edmonds, himself, or Marcia Seiler.

Adjournment

With no further business before the committee, the meeting adjourned at 3:07 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

October 11, 2011

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, October 11, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Representative

Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll and Paul Hornback; Representatives Jesse Crenshaw and Brent Yonts.

Guests: Larry Blake, Jeff Strunk, Michelle Landers, Lisa Beran, Joe Crabtree, Carrie Banahan, Beth Jurek, Mitchell Payne, Kenneth Dietz, David Gayle, Virginia Carrington, Charlie Harman, Johnny Collett, Linda Robinson, Ryan Green, Elizabeth Whitehouse, Peggy Stratton, Therese Richerson, Bill Bell, Rebecca Goodman, and Kevin Damron.

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the September 2011 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

DEFERRED ITEMS FROM SEPTEMBER 2011:

NORTHERN KENTUCKY UNIVERSITY:

Jones Lang LaSalle Americas Incorporated, 836-12. Larry Blake and Jeff Strunk discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

A motion was made by Representative Yonts to approve the following contracts: MURRAY STATE UNIVERSITY: 014-12, Egsue Incorporated d/b/a JEM Associates; OFFICE OF HOMELAND SECURITY: 1000004121, Goldberg & Simpson, PSC. Senator Carroll seconded the motion, which passed without objection.

DEFERRED ITEMS:

A motion was made by Representative Yonts to defer the following contracts to the November 2011 meeting of the committee: NORTHERN KENTUCKY UNIVERSITY: Athletic Staffing & Consulting, LLC, 2012-594. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for

further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

EASTERN KENTUCKY UNIVERSITY:

Pappas Consulting Group Incorporated, 12-054.

EDUCATION, DEPARTMENT OF:

Wade William Honey, 1200000331; Michelle E. Deal, 1200000506.

FINANCE AND ADMINISTRATION CABINET:

Embry Merritt Shaffar Womack, PLLC, 1200000430; Cunningham Lindsey U.S. Incorporated, 1200000580.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Brandstetter Carroll Incorporated, 1200000309; Vaughn & Melton, 1200000359.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Cornelius & Associates d/b/a Collegiate Project Services, 498.

KENTUCKY HOUSING CORPORATION:

Mortgage Bankers Association Incorporated, 2012-2.

KENTUCKY LOTTERY CORPORATION:

LegalFilesSoftwareIncorporated, 12-11-029.

LEGISLATIVE RESEARCH COMMISSION:

Robert L. Linn, 11/12-04; Pat Roschewski, 11/12-07; Ron Hambleton, 11/12-08; Daniel Koretz, 11/12-08; Doris Redfield, 11/12-09.

MURRAY STATE UNIVERSITY:

Sherman Carter Barnhart Architects, PSC, 015-12.

OFFICE OF HOMELAND SECURITY:

Goldberg Simpson, LLC, 1200000486.

T R A N S P O R T A T I O N

CABINET:

MPRI, A Division of L-3 Services Incorporated, 1200000005; The Raleigh Company, 1200000260; Lochner HW Incorporated Consulting, 1200000344; Strand Associates Incorporated, 1200000367; HMB Professional Engineers Incorporated, 1200000428; Palmer Engineering Company, 1200000441; EA Partners, PLC, 1200000447; Public Financial Management Incorporated, 1200000454; Palmer Engineering Company, 1200000457; Vaughn & Melton Consulting Engineers (Kentucky) Incorporated, 1200000458; Garver, LLC, 1200000465; URS Corporation, 1200000467; Florence & Hutcheson, 1200000514; HDR Engineering Incorporated, 1200000534.

UNIVERSITY OF KENTUCKY:

Koch Modular Processing Systems, K12-125; International Business Machines Incorporated, K12-126; My Giving Advisor, LLC, K12-127.

UNIVERSITY OF LOUISVILLE:

APTEC, LLC, 12-017.

THE FOLLOWING PERSONAL SERVICE CONTRACT

AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Dean Dorton Allen Ford, PLLC, 1100001651; Morgan Franklin, LLC, 1100001652; Kem Duguid & Associates, PSC, 1200000188.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Guardian Healthcare Providers, 1100000017.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Acclaim Systems Incorporated, 1100001976.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Homeless & Housing Coalition of Kentucky, 1000001527; American Red Cross Louisville, 1000001540; Project Unite, 1000001576; Kentucky Domestic Violence Association, 1100000173.

DEPARTMENT FOR INCOME SUPPORT:

Legal Aid Society, 1100001279.

EDUCATION, DEPARTMENT OF:

Kenton County YMCA, 1000002722; R.C. Durr YMCA, 1000002754; Linda Martin, 1000002996; University of Kentucky Research Foundation, 1000003384; Parsons Commercial Technology

Group Inc., 1100001588.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Paladin Incorporated, 0600003090; Kersey & Kersey Incorporated, 1000000852; Barnette Bagley Architects, 1000001690; Omni Architects, 1100001498; Paladin Incorporated, 1100002046; Sherman Carter Barnhart, C-05236910.

JUVENILE JUSTICE, DEPARTMENT OF:

PCA Corrections, LLC, 1000002848.

MEDICAL LICENSURE,

BOARD OF:

Multi, 1000002739.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2012-563.

PERSONNEL-OFFICE OF THE SECRETARY:

Blue & Company, LLC, 1100001991.

POST SECONDARY EDUCATION, COUNCIL ON:

Blue & Company LLC, 1000002022; CBW Associates, 1100000464.

T R A N S P O R T A T I O N CABINET:

Michael Baker Jr., Incorporated, 0700004078; Stantec Consulting Services, Incorporated, 0800011041; URS Corporation, 0900012389; HMB Professional Engineers Incorporated, 1200000411; American Engineers Incorporated, 1200000460; URS Corporation, C-01346554-3; Municipal Engineering County, C-02410075-1; Quest Engineers Incorporated, C-05511374; Quest Engineers Incorporated, C-05511374; E A Partners, PLC, C-99005249-5; E A Partners, PLC, C-99005363-1; W M B Incorporated, C-99005584-6.

UNIVERSITY OF KENTUCKY:

Software Information Systems, LLC, K11-139.

WESTERN KENTUCKY UNIVERSITY:

Kerr Greulich Engineers, 101230; McDonald Transit Associates Incorporated, 111214.

THE FOLLOWING MEMORANDA OF AGREEMENT WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Project Unite, 1200000099.

DEPARTMENT FOR NATURAL RESOURCES:

Anderson County Conservation District, 1200000437.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

University of Kentucky Research, 1200000127.

EDUCATION, DEPARTMENT OF:

Marion County Board of Education, 1100002269; Bowling Green Independent Board of Education, 1100002593; Bowling Green Independent Board of Education, 1200000052; Trigg County Board of Education, 1200000080; Jefferson County Board of Education, 1200000120; Clark County Board of Education, 1200000251; Jefferson County Board of Education, 1200000317; Fleming County Board of Education, 1200000335; Jackson Independent Board of Education, 1200000337; Jessamine County Board of Education, 1200000338; Lee County Board of Education, 1200000339; Owen County Board of Education, 1200000340; Washington County Board of Education, 1200000341; University of Kentucky Research Foundation, 1200000347; University of Kentucky Research Foundation, 1200000348; Green River Regional Education, 1200000363; Green River Regional Education, 1200000364; Green River Regional Education, 1200000369; University of Kentucky Research Foundation, 1200000381; University of Kentucky Research Foundation, 1200000382; University of Kentucky Research Foundation, 1200000393; Anchorage Independent School District, 1200000419; NKU Research Foundation, 1200000426; Kentucky Valley Education, 1200000438; Fayette County Board of Education, 1200000461; Floyd County Board of Education, 1200000468; Fayette County Board of Education, 1200000483; Green River Regional Education, 1200000484; Central Kentucky Educational Cooperative, 1200000485; Magoffin County Board of Education, 1200000572.

GOVERNOR, OFFICE OF THE:

Eastern Kentucky Child Care Coalition, 1200000482; Oldham County Health Department, 1200000488; Oldham County Health Department, 1200000549.

INFRASTRUCTURE AUTHORITY:

Drakesboro Water & Sewer, 1200000427; City of Sturgis, 1200000573.

MILITARY AFFAIRS, DEPARTMENT OF:

Martin City, 1200000352; Multi, 1200000383.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Perry County Board Education, 1100003070; Daviess County Fiscal Court, 1200000271; Johnson County Fiscal Court, 1200000334; Floyd County Board of Education, 1200000409; Floyd County Fiscal Court, 1200000415; Union County

Fiscal Court, 1200000418; Wolfe County Fiscal Court, 1200000425; Pendleton County Fiscal Court, 1200000448; Calvert City, 1200000451; City of Georgetown, 1200000503.

STATE POLICE, DEPARTMENT OF:

Kentucky Medical Service, 1200000318; Kentucky Medical Service, 1200000403.

TRANSPORTATION CABINET:

Kosair Children's Hospital, 1200000479; Kentucky Crime Prevention Coalition, 1200000491; Kosair Children's Hospital, 1200000498.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Multi Purpose Community Action Agency Incorporated, 1100001866.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Lexington Fayette Urban County Government, 1100000656.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Ohio Valley Education Cooperative, 1000001561; Ohio Valley Education Cooperative, 1000001575; Morehead State University, 1000003914; Eastern Kentucky University, 1000003918; Community Action Lexington Fayette, 1100000352; Northern Kentucky Community Action Commission Incorporated, 1100000363; Northern Kentucky University Research Foundation, 1100000390; Jefferson County Board of Education, 1100000493; Green River Area Development District, 1100000495; Barren County Board of Education, 1100000496.

EDUCATION, DEPARTMENT OF:

Larue County Board of Education, 1000003500; Treasurer Jessamine County Board of Education, 1000003735; Hart County Board of Education, 1000004135; Corbin Independent Board of Education, 1000004208; Bowling Green Independent Board of Education, 1100000041; Eastern Kentucky University, 1100001180; Department for Public Health Chronic Disease Program, 1100001610; University of Oregon, 1100001740; Paris Independent Board of Education, 1100002251; Pike County Board of Education, 1100002258; Pike

County Board of Education, 1100002581; Metcalfe County Board of Education, 1100002588; Central Kentucky Educational Cooperative, 1100002659.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 0800011286; Multi, 1000000949.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Hazel, 0800009073; Troublesome Creek Environmental Authority, 1000001492; Webster County Fiscal Court, 1000001500; City of Madisonville, 1100000444; Wayland City, 1100000887; City of Dawson Springs, 1100001020; Ohio County Fiscal Court, 1100001024; Bell County Fiscal Court, 1100001028; Bell County Fiscal Court, 1100001029; Bell County Fiscal Court, 1100001030; Bell County Fiscal Court, 1100001031; Bell Co Fiscal Court, 1100001032; Harlan County Fiscal Court, 1100001127; Harlan County Fiscal Court, 1100001129; Harlan County Fiscal Court, 1100001130; Harlan County Fiscal Court, 1100001131; Harlan County Fiscal Court, 1100001132; Floyd County Fiscal Court, 1100001160; Floyd County Fiscal Court, 1100001171; Harlan County Fiscal Court, 1100001208; Harlan County Fiscal Court, 1100001210; Harlan County Fiscal Court, 1100001211; City of Mortons Gap, 1100001212; Floyd County Fiscal Court, 1100001245; Floyd County Fiscal Court, 1100001246; Bell County Fiscal Court, 1100001305; Bell County Fiscal Court, 1100001324; Leslie County Fiscal Court, 1100001326; Leslie County Fiscal Court, 1100001327; Leslie County Fiscal Court, 1100001334; Bell County Fiscal Court, 1100001368; Bell County Fiscal Court, 1100001370; Bell County Fiscal Court, 1100001383; Bell County Fiscal Court, 1100001384; Harlan County Fiscal Court, 1100001401; Bell County Fiscal Court, 1100001440; City of Wayland, 1100001549; Floyd County Fiscal Court, 1100001552; Floyd County Fiscal Court, 1100001554; Floyd County Fiscal Court, 1100001555; Bell County Fiscal Court, 1100001614; Bell County Fiscal Court, 1100001615; Bell County Fiscal Court, 1100001616; Wolfe County Fiscal Court, 1100001689; City of Prestonsburg, 1100001723; City of Prestonsburg, 1100001724; City of Prestonsburg, 1100001731; City of Prestonsburg, 1100001732; Floyd County Fiscal Court, 1100001734; Floyd County Fiscal Court, 1100001735; City of Earlington, 1100001831; City of Prestonsburg, 1100001833; Floyd County Fiscal Court, 1100002293; Middlesboro Independent Board of

Education, 1100003018; Bell County Fiscal Court, 1100003073; Bell County Fiscal Court, 1100003076; Bell County Fiscal Court, 1100003078.

TRANSPORTATION CABINET:

Fleming County Health Department, 1100002465.

TRAVEL, DEPARTMENT OF:

Multi, 1100002815; Multi, 1100002816; Multi, 1100002817; Multi, 1100002818; Multi, 1100002819; Multi, 1100002820; Multi, 1100002821; Multi, 1100002822; Multi, 1100002823

WORKFORCE INVESTMENT, OFFICE OF:

Russell Independent School District, 1000002122.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

KENTUCKY EMPLOYERS MUTUAL INSURANCE:

Deutsche Investment Management Americas Incorporated, 12-DIM-001. Michelle Landers discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

KENTUCKY HOUSING CORPORATION

Kinthead & Stilz, PLLC, 2012-9. Lisa Beran discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

UNIVERSITY OF KENTUCKY

Applied Mechanics International, K12-128; Applied Technical Services Incorporated, K12-129. Joe Crabtree 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 PERSONAL SERVICE CONTRACT

AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MEDICAID SERVICES

Ked R. Fitzpatrick, 1100001910. Beth Jurek discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

UNIVERSITY OF LOUISVILLE

Jeffrey L. Bruce & Company Incorporated, 11-110. Mitchell

Payne and Kenneth Dietz 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
MEMORANDA OF AGREEMENT
WERE SELECTED FOR
FURTHER REVIEW:**

**DEPARTMENT FOR
COMMUNITY BASED SERVICES**

University of Kentucky Research Foundation, 1200000476; Pennyryle Allied Community Services Incorporated, 1200000477. David Gayle and Virginia Carrington 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.

**EDUCATION, DEPARTMENT
OF**

University of Kentucky Research Foundation, 1200000278. Charlie Harman and Johnny Collett discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

GOVERNOR, OFFICE OF THE
University of Kentucky Research Foundation, 1200000600. Ryan Green and Elizabeth Whitehouse discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

TRANSPORTATION CABINET
Kentucky Association of Chiefs of Police, 1200000492; Kentucky Association of Chiefs of Police, 1200000493; Kentucky Association of Chiefs of Police, 1200000494; Kentucky Crime Prevention Coalition, 1200000496. Peggy Stratton, Therese Richerson, and Bill Bell 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 AGREEMENT
AMENDMENTS WERE
SELECTED FOR FURTHER
REVIEW:**

**EDUCATION, DEPARTMENT
OF**

Ballard County Board of Education, 1000002591; Barren County Board of Education, 1000002592; Boone County Board of Education, 1000002595; Bourbon County Board of Education, 1000002600; Boyd County Board of Education, 1000002601;

Bullitt County Board of Education, 1000002609; Campbellsville Independent Board of Education, 1000002611; Carlisle County Board of Education, 1000002613; Carroll County Board of Education, 1000002616; Christian County Board of Education, 1000002638; Clinton County Board of Education, 1000002639; Corbin Independent Board of Education, 1000002646; Covington Independent Board of Education, 1000002649; Cumberland County Board of Education, 1000002653; Fayette County Board of Education, 1000002656; Fulton County Board of Education, 1000002666; Garrard County Board of Education, 1000002669; Glasgow Independent Board of Education, 1000002671; Grayson County Board of Education, 1000002672; Hancock County Board of Education, 1000002674; Harlan County Board of Education, 1000002685; Hart County Board of Education, 1000002690; Henderson County Board of Education, 1000002695; Hickman County Board of Education, 1000002698; Jackson Independent Board of Education, 1000002702; Jenkins Independent Board of Education, 1000002719; Lawrence County Board of Education, 1000002721; Letcher County Board of Education, 1000002725; Lewis County Board of Education, 1000002726; Lincoln County Board of Education, 1000002728; Livingston County Board of Education, 1000002729; Lyon County Board of Education, 1000002731; Marion County Board of Education, 1000002732; Metcalfe County Board of Education, 1000002733; Monticello Independent Board of Education, 1000002737; Morgan County Board of Education, 1000002738; Nelson County Board of Education, 1000002740; Newport Independent Board of Education, 1000002742; Nicholas County Board of Education, 1000002744; Owensboro Independent Board of Education, 1000002746; Owsley County Board of Education, 1000002747; Paintsville Independent Board of Education, 1000002748; Paris Independent Board of Education, 1000002749; Pulaski County Board of Education, 1000002751; Robertson County Board of Education, 1000002757; Russell County Board of Education, 1000002759; Board of Education of Somerset School District, 1000002760; Taylor County Board of Education, 1000002762; Whitley County Board of Education, 1000002770. Charlie Harman, Johnny Collett and Linda Robinson 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 with Senator Hornback voting NO.

OFFICE OF HEALTH POLICY
Insurance Health & Life, 1100001219. Carrie Banahan and Beth Jurek discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

**ITEM #12 ON AGENDA
TRANSPORTATION
CABINET:**

Rebecca Goodman, Kevin Damron, and Peggy Stratton came before the committee to discuss three title examinations in violation of the modified exemption granted to the Transportation Cabinet in July 2009.

With no further business before the committee, the meeting adjourned at 12 PM.

**TASK FORCE ON
CHILDHOOD OBESITY**

Minutes of the 4th Meeting
of the 2011 Interim
October 25, 2011

Call to Order and Roll Call

The fourth meeting of the Task Force on Childhood Obesity was held on Tuesday, October 25, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Tom Riner, Co-Chair, called the meeting to order at 10:15 a.m., and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Tom Riner, Co-Chair; Senators Tom Buford, and Jimmy Higdon; Representatives Bob M. DeWeese, Mary Lou Marzian, David Watkins, and Addia Wuchner.

Guest Legislator: Representative Dennis Horlander.

Guests: Antonia Demas, Ph.D., President and Founder, Food Studies Institute, Visiting Scholar, Johns Hopkins University School of Public Health, and University of Illinois College of Medicine; Tim Roethgen, Marketing Team Leader, Whole Foods Market, Mid-Atlantic Region; Mike Cassady, Principal, Inez Elementary School; Julia O. Bauscher, SNS, Director, School and Community Nutrition Services, Jefferson County Public Schools; Donna Benton, Practical Living Specialist, Jefferson County Public Schools; Barbara Dohira, Independent School Health Consultant; Bruce W. Scott, Mental Health America-Kentucky; Jennifer Alvis and Meredith Evans, Commission for Children with Special Health Care Needs; Sharon Heckel, Hope J. Proctor, and Bill Doll, Kentucky Medical Association; Andrea Plummer, Kentucky Youth Advocates; Susan Zepeda, Foundation for a Healthy Kentucky; and Jodi Mitchell, Kentucky Voices for Health.

LRC Staff: DeeAnn Mansfield, Ben Payne, Kenneth Warlick, Katie French, and Gina Rigsby.

Minutes

A motion to approve the minutes of the September 20, 2011 meeting was made by Senator Stine, seconded by Representative Watkins, and approved by voice vote.

Food Is Elementary

Antonia Demas, Ph.D., President and Founder, Food Studies Institute, Visiting Scholar, Johns Hopkins University School of Public Health, and University of Illinois College of Medicine, stated that parents need to begin cooking with their children at an early age, because when children get involved in the preparation of the food, they will learn to eat healthier. The Food is Elementary (FIE) is a sensory-based hands on curriculum for children and it is the goal to have it in every Kentucky school. If children are not fed properly, they cannot learn as efficiently. Children are getting too many empty calories too often. Education is the solution and the federal government needs to support and provide funding this education. Cancer, stroke, heart disease, and diabetes are all chronic disease that could be avoidable by eating a healthy diet. The analysis from a study by Dana Kindermann, MPH, found that if FIE could prevent one case of diabetes among the 13,000 students in the 130 participating schools, the program could be considered cost-saving. The estimated average per person cost of FIE for one year is about \$229. The average cost of diabetes treatment for one year is \$6,650. Approximately one-third of young children are expected to develop diabetes in their lifetime.

The school lunch program serves approximately 53 million students per year. The United States Department for Agriculture (USDA) requires students receive protein, fruit, vegetable, grain, and milk every day. The school lunch program could be a good way to turn the obesity problem around. Low-income children rely on school lunches, because it may be the only meal they eat that day. Children should have a longer time to eat lunch and be able to eat in a calm environment. In the United States 82 percent to 92 percent of food sales are processed; 16 percent of energy used in food production is for processing; and 7 percent of energy used in food production is for packaging. Students experience the sensory value of smell as it relates to taste, so children need to be introduced to and experiment with new foods to see what foods they prefer. If children are allowed to help grow and prepare foods, they are more likely to eat it. Food is visually appealing to people; therefore, children are more likely to eat colorful foods. Food can also be

used in art classes to create artwork and then students would be allowed to eat the healthy foods. Students could also keep food journals as part of the language arts school curriculum.

The average distance food travels before we eat it is 1,500 miles. Locally grown produce is healthier for everyone. Schools could raise their own produce to serve healthier school lunches. It takes approximately one acre of land to produce one year of food per child. Unfortunately, a large number of children have not had access to healthy foods. FIE is a great way to expose children to other cultures and geographical locations by serving foods from other countries. Children can share what they have learned with their families and help them make healthier food choices.

Cynthia Starr, volunteer food educator at Zachary Taylor Elementary School in Louisville, stated that children will eat healthier if they are taught about healthy foods. Children can learn to like whole food instead of processed food. Children can learn the nutritional value of the foods to help them make healthier choices. Children need to use all of their senses when learning about foods. A good way to keep children actively involved in the curriculum is to have food demonstrations with student participation. Kentucky ranks third in the nation for childhood obesity, with 21 percent of children dangerously obese.

In response to a question by Representative Riner, Dr. Demas stated that she studied with Dr. T. Colin Campbell, author of The China Study, who was on her PhD dissertation committee while at Cornell University. The China Study is the largest nutrition study ever conducted in the world.

In response to questions by Senator Stine, Dr. Demas stated that according to the Centers for Disease and Prevention Control (CDC), one half of the children born in 2000 are expected to develop Type 2 diabetes. FIE starts with food safety and builds to cooking lessons. All schools that have implemented the FIE curriculum have shown improvement. While some private schools use the FIE curriculum, there is no reason public schools cannot use the same sensory-based methods.

In response to a question by Representative Marzian, Dr. Demas stated that people need to see the results of the FIE curriculum to believe it. There would be a cost savings for schools if healthier foods were served in the lunch program, because there would be less attendance problems due to sick children. Children are not condemned for current habits, but encouraged to develop positive habits.

School Salad Bars and Gardens in Martin County, Kentucky

Tim Roethgen, Marketing Team Leader, Whole Foods Market, Mid-Atlantic Region, stated that Whole Food Market is a mission-driven company that aims to set the standards of excellence for food retailers. The company is building a business in which high standards, community service, and environmental stewardship permeate all aspects of the company. The mission of Rockin' Appalachian Mom Project (RAMP) is to teach, feed, and sustain the families of the Appalachian region by creating programs that address nutrition and end hunger. Programs include community and school gardens, healthy eating education, school salad bars, the backpack snack program, and the homecoming food pantry. The goal of the Whole Kids Foundation is to improve children's nutrition and reverse the trend in childhood obesity. Whole Kids Foundation focuses on efforts in school garden grants, salad bars in schools, and nutrition education and inspiration for teachers.

Of the total population of Martin County, more than 32 percent are children under the age of 18 and the elderly. Many school-aged children do not have enough to eat on a regular basis. They are fed through the public schools' federal Free and Reduced Lunch Program on school days, but many arrive at school on Monday hungry. Three of the six Martin County public schools have raised bed gardens, and will add three more school gardens in 2012. In the fall of 2010, Whole Foods Market donated salad bars to all six schools in Martin County. The goal is to be able to operate the salad bar five days per week. Whole Foods' regional produce team partnered with Earthbound Farm for a program fundraiser. For each Earthbound Farms salad mix purchased, five cents is donated to the Martin County salad bar program. Healthy options are available in most communities. Martin County needs to create more commerce to help boost the economy. Whole Foods Market bought a bus and incorporated a kitchen to help educate communities about healthier choices.

In response to questions by Senator Stine, Mr. Roethgen stated that schools set up a garden committee of students led by teachers to help take care of the gardens during the summer. In addition to the garden committee and teacher, next year the company wants to work with the extension agency to have a larger committee to help oversee the gardens during the summer. Whole Foods has a number of urban gardens in Louisville, but does not have any in Covington or Newport

yet. The company carries a number of Kentucky Proud products in its stores, and it is the reason why Whole Foods can have as many local products in its stores. The company is in the process of determining where the next store will be located.

In response to questions by Representative Wuchner, Mike Cassady, Principal, Inez Elementary School in Martin County, stated that the federal school lunch program has its own guidelines that is based on calories. Starting in 2011, all children in Martin County eat free because of the federal lunch program. More children eat school lunches because it is available to them. School food service people had to adapt to the preparation and length of time required to serve the salad bar and fruit. Options have to be offered to the students. The Family Resource Center works with schools and Whole Foods on the lunch program.

In response to questions by Representative Riner, Mr. Cassady stated that he wanted to set an example for his students and teachers, so he has lost approximately 90 pounds by eating healthier and exercising. He noticed a difference in his health and level of physical ability. It is important to expose children to different eating habits.

Senator Higdon stated that each county has a Supplemental and Nutritional Assistance Program (SNAP) coordinator is mandated to address childhood obesity. Mr. Roethgen stated that the Family Resource Center also works with Martin County SNAP coordinators.

School Physical Activity and Nutrition Programs

Julia O. Bauscher, Director, School Food Service (SFS) Program, School and Community Nutrition Services, Jefferson County Public Schools (JCPS), stated that of the School Food Service Program serves 61,000 students lunch each day and 31,000 students are served breakfast. A model has been developed to contract with local farmers to provide a variety of produce. JCPS received 33 USDA Fresh Fruit and Vegetable grants that offer students a fresh fruit or vegetable snack three days per week. JCPS works with local chefs to help revise recipes with a reduction in sodium content. There are 35 student nutrition advisory councils (SNAC) at all levels of JCPS schools. Students meet periodically to sample new items for school menus and provide other feedback on the school nutrition environment. Councils have approved numerous recipes and healthier versions of menu items. Since 2009, the SFS program has been involved to help develop 27 new school gardens. The school garden coordinator has

written a policy and procedure manual for the school gardens that helps to assure that students and cafeteria staff handle fresh produce properly. A comprehensive accompanying curriculum connects the school gardens to all of the subjects taught in the school and is aligned with the Kentucky Core Content Assessment Standard (KCAS). In January 2010, 77 of the 88 elementary schools received a Healthier US School Challenge bronze award. Nine elementary schools were selected to participate in the Physical Education for Progress (PEP) three-year grant. The grant is expanding and enhancing current programs within the Health Promotion Schools of Excellence (HPSE) schools to address childhood obesity and chronic disease prevention. The three components of the grant are Y5210, Funtastic Fitness Pedometer, and Go Healthy Nutrition programs.

Donna Benton, Practical Living Specialist, Jefferson County Public Schools, stated that the practical living program review implemented in 2011 has the potential to help with the health and physical education curriculum and wellness initiatives and needs to stay part of the accountability system. The Communities Putting Prevention to Work grant received from the CDC has allowed school districts to make progress in the area of physical activity. There are two elementary schools that are health and fitness magnet schools. The requirements in SB 172 allows up to 30 minutes a day of moderate to vigorous physical activity can count as instructional time is huge and has improved the physical activity environment in the schools. JCPS schools are working on physical education classes to increase quantity and time of physical activity in a physical education class. All students can be physically active in the classroom and in after school programs. The more a teacher values health, the more the classroom reflects health practices.

In response to Representative Horlander, Ms. Benton stated the two elementary health and fitness for accelerated learning program magnet schools are Rangeland and Wellington. Approximately 61 percent of students eat lunch every day, and the other 39 percent bring their own lunch or skip lunch altogether.

In response to questions by Representative Wuchner, Ms. Benton stated that approximately 90 percent of Jefferson County schools conduct at least 30 minutes of moderate to vigorous physical activity each day. Teachers do not want to be mandated to make changes in physical activity requirements, so Jefferson County only invites teachers to make the changes.

In response to a question by Representative Riner, Ms. Benton stated that she would get back with the task force with recommendations.

In response to questions by Senator Stine, Ms. Benton stated that structured recess professional development is being offered on how to make recess really be moderate to vigorous physical activity. Most schools provide structured recess, but it could be improved. Ms. Bauscher stated that students may voluntarily not eat lunch while in the cafeteria, but they still have to go to lunch. Students cannot leave the school grounds during the lunch period.

Adjournment

There being no further business, the meeting was adjourned at 12:33 p.m.

TASK FORCE ON CHILDHOOD OBESITY

Minutes of the 5th Meeting
of the 2011 Interim
October 31, 2011

Call to Order and Roll Call

The fifth meeting of the Task Force on Childhood Obesity was held on Monday, October 31, 2011, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Katie Kratz Stine, Co-Chair, called the meeting to order at 1:20 p.m., and the secretary called the roll. Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Tom Riner, Co-Chair; Senators Tom Buford, Jimmy Higdon, and Joey Pendleton; Representatives Bob M. DeWeese, and Addia Wuchner.

Guests: Andrea Plummer, Senior Policy Analyst, Kentucky Youth Advocates; Tonya Chang, Kentucky Director of Government Relations, American Heart Association, Great Rivers Affiliate; Carolyn Dennis; Ben Reno-Weber, Executive Director, Kentucky YMCA Association; Steve Tarver, CEO, YMCA of Greater Louisville; Gail Glasser, CEO, Central Kentucky YMCA; Dave Steele, CEO, Frankfort YMCA; Dr. Rachel Lowdenback, Pediatric Resident, Dr. Lauren Kostelnik, Pediatric Resident, Dr. Ashley Bowen, Pediatric Resident, Dr. Lori Huff, Pediatrics Chief Resident, Dr. Kim Northrip, Assistant Professor of Pediatrics, Dr. Janeth Ceballos, Assistant Professor of Pediatrics, and Dr. Stephanie Stockburger, Assistant Professor Pediatrics and Adolescent Medicine, University of Kentucky Department of Pediatrics; Wayne Young, KASA; Susan Zepeda, Foundation for a Healthy Kentucky; Meredith Evans and Jennifer Alvis, Commission for Children with Special Health Care Needs; Shannon Buzard, concerned citizen; and Jamie Sparks Kentucky

Department of Education.

LRC Staff: DeeAnn Mansfield, Ben Payne, Kenneth Warlick, Katie French, and Gina Rigsby.

Approval of the Minutes of the October 25, 2011 Meeting

A motion to approve the minutes of the October 25, 2011 meeting was made by Senator Pendleton, seconded by Representative Wuchner, and approved by voice vote.

Complete Streets/Safe Routes to Schools

Andrea Plummer, Senior Policy Analyst, Kentucky Youth Advocates, stated that policies need to be changed to make children more active by walking and riding bikes. Everyone should be able to travel safely on roads and be active in communities. Many roads are built with only people in vehicles in mind, making streets sometimes unsafe for people using other modes of transportation. In response to unsafe conditions for users and in an effort to promote physical activity, many communities are adopting a complete streets approach. Complete streets are designed to accommodate everyone that uses the road, including pedestrians, bicyclists, motorists, and public transportation users of all ages and abilities. Everyone should be able to safely move along and cross a complete street. When complete streets are included in the early stages of transportation planning and design, there is often little to no cost to implement. Complete streets may include bike lanes, sidewalks, crosswalks, wide paved shoulders, pedestrian signals, special bus lanes, and roundabouts. A wide shoulder and/or a sidewalk may be enough to be a complete street in rural areas. Urban areas may need more elements due to heavier traffic on roads.

Complete streets allow traffic to flow more smoothly, motorists become more aware of other users of roads, and there is a reduced risk of accidents involving bicyclists and pedestrians. Community members are more likely to exercise and utilize active transportation options if there is an accessible and safe place to do so. Other complete streets benefits include reduced traffic congestions, attracting tourism, livable communities, encouraging safer routes to school, improved air quality, and lower transportation costs for families. Complete streets policies can be adopted in a variety of ways including state legislation, executive orders, public ordinances, resolutions, internal policies, and rewrites of manuals and standards. Currently, 25 states have committed to adopting complete streets policies. The Kentucky Transportation Cabinet has an internal policy which states that bicycle and pedestrian facilities will

be considered if certain conditions are met. However, this is not considered a complete streets policy by the National Complete Streets Coalition.

Senator Pendleton stated that complete streets should be located closest to the higher populated areas.

Joint Use Agreements/School and Community Partnerships

Andrea Plummer, Senior Policy Analyst, Kentucky Youth Advocates, stated that a shared use agreement is a formal or informal partnership to share facilities between a local school district and other agencies such as city government, parks and recreation department, or the YMCA. The facilities can include, but are not limited to, outside tracks and fields, swimming pools, fitness centers, and gymnasiums. Children are more active when they have safe places to play. Communities with lower incomes, higher poverty rates, and higher proportions of racial and ethnic minorities who are the most at risk to be sedentary and overweight have the fewest community level physical activity related opportunities. KRS 160.293 allows a board of education to enter into agreements with public agencies to develop and maintain recreational facilities on school property for school and community purposes. KRS 162.05 allows a board of education to permit the use of the schoolhouse by any lawful public assembly of education, religious, agricultural, political, civic, or social bodies under rules it deems proper. All formal agreements must be approved through the Kentucky Department of Education, Division of Facilities Management. Most agreements are formed at the district level in partnership with the school principal and the community agency. Some districts handle all agreements and principals must allow the school facilities to be used. Other districts encourage principals to share the school facilities but do not require them to. Some district superintendents do not allow school facilities to be used by community agencies. The most commonly reported concerns were fear that school facilities would be damaged, liability, and security.

Recommendations are to provide schools and districts technical assistance in forming joint-use agreements, to limit liability for schools in order to encourage schools and districts to share school facilities with community agencies, to create a venue for schools and districts to hear how others have created successful partnerships with community agencies, and to help schools identify funding opportunities that would help them form joint-use agreements.

In response to a question by Representative Riner, Ms. Chang

stated that the Kentucky recreational user statutes would hold up to a court challenge.

Senator Pendleton stated that the burden of change cannot be placed totally on the school, but parents also need to take responsibility and change the cycle of unhealthy eating and sedentary lifestyles. A change needs to be made in the Supplemental Nutrition Assistance Program (SNAP) that would not allow electronic benefits transfer (EBT) cards to be used to buy unhealthy foods. Ms. Chang stated that the changes would have to come from the federal government. In response to a statement by Senator Pendleton, Ms. Chang stated that it will take both legislation and education to make changes.

Policy Prospective: What Other States are Doing to Address Obesity

Tonya Chang, Kentucky Director of Government Relations, American Heart Association, Great Rivers Affiliate, stated that 66 percent of adult Kentuckians are overweight or obese. Nearly ten percent of all medical spending is related to obesity. On average, individuals who are obese spend almost \$1,500 more on health care per year. In 2005, legislation passed that required nutrition standards for competitive food sales in schools, nutrition education for school food service personnel, district reports on the status of the school nutrition and physical activity and an annual report from the Department of Education on physical activity in elementary schools. It also restricted access to fast food and contained a provision that allows elementary schools to count up to 30 minutes of daily physical activity as part of the instructional day. The Department for Public Health within the Cabinet for Health and Family Services provides staff for the Partnership for a Fit KY, a statewide coalition focused on obesity, but the group's work is very limited due to a lack of resources.

Kentucky is one of 20 states along with Washington, D.C. that have stricter school nutrition standards than the USDA. Kentucky is one of 35 states along with Washington D.C. that have nutritional standards for competitive foods. California, Oregon, and North Carolina prohibit the use of trans fat oils in food preparation in schools. Twenty-six states and Washington, D.C. have some kind of Farm to School program. Some programs are statewide; others cover a portion of a state or certain schools. Florida, Alabama, Louisiana, Montana, and Oregon require 150 minutes of physical education per week in grades K-6. Alabama, Louisiana, Utah, Montana, and Oregon require 150 minutes of physical education per week in middle school. About 11 states require

schools to provide physical activity or recess during the school day. Twenty states have requirements for body mass index (BMI) screening or other weight-related assessments. Several states have passed laws to address the treatment and management of diabetes in at school.

South Dakota and North Carolina have passed laws that clarify liability rules for the use of school-owned recreational facilities by other government and non-governmental entities for the purpose of physical activity. It is recommended that Kentucky strengthen its liability laws. The National Conference of State Legislators (NCSL) identified five policies that encourage biking and walking: incorporating sidewalks and bike lanes into community design, funding for biking and walking in highway projects; establishing safe routes to school, implementing traffic-calming measures designed to slow traffic, and creating incentives for mixed-use development. California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Oregon, Rhode Island, Vermont, Washington, and Wisconsin have passed complete street laws. According to the National Complete Streets Coalition, more than 250 complete streets policies have been passed by states, counties, regional governments, and cities. Several states, including Kentucky have considered legislation that would provide tax incentives to offset some of the employers' costs for implementing comprehensive worksite wellness programs. The nutrition and physical activity standards for daycare centers are areas that also need to be studied.

Senator Stine stated that everyone would benefit from complete streets. It would save transportation expenses to roads, promote economic development and tourism, and encourage families to exercise.

Senator Higdon stated that Kentucky should petition the federal government to change the requirement that SNAP recipients receive 52 checks per year instead of 12.

Shaping Kentucky's Future Collaborative

Carolyn Dennis said that the members of Shaping Kentucky's Future Collaborative (SKFC) are a loose affiliation of corporate, community, and family foundations that, working under auspices of the Blue Grass Community Foundation, represent a resource for Kentucky. Working within the framework of the Shaping Kentucky's Future policy brief developed by the Partnership for a Fit Kentucky, SKFC identified three priority policy areas: sound nutrition and healthy physical activity in school

settings; sound nutrition and healthy physical activity in early childhood settings; and complete streets with safe space for pedestrian and bicycle traffic. In 2006, a collaboration of national funders created the Healthy Eating Active Living Convergence Partnership, with the goal of changing policies and environments to better achieve the vision of healthy people living in healthy places. In 2010, a two-year \$150,000 grant was received from the Tides Foundation on behalf of Healthy Eating, Active Living Convergence Partnership to provide consultative support to SKFC. The Tides Foundation also provided a \$30,000 grant to SKFC to match the local funder's investment. The Foundation for a Healthy Kentucky committed \$100,000 for each of two years, matched dollar for dollar by four of Kentucky's community foundations, for a total of \$400,000, thereby leveraging the original \$150,000 investment by the Tides Foundation for a total of \$550,000. Ongoing partnerships include the Kentucky League of Cities, Partnership for a Fit Kentucky, Kentucky Voices for Health, and Kentucky Youth Advocates. Recipes for Change: Healthy Food in Every Community, found at www.ConvergencePartnership.org, addresses examples of policy change in healthy food in schools and child care settings. Transportation and Health 101 Toolkit presents an overview of transportation policy and planning, the connections between transportation and health as well as policy opportunities to create healthy transportation options.

Susan Zepeda, Ph.D., President and CEO of the Foundation for a Healthy Kentucky provided the members with information on the foundation, results of the Healthy Kentucky 2010 Kentucky Health Issues poll, and a DVD titled More Than Child's Play, Why Physical Activity Matters produced by Kentucky Education Television (KET).

Kentucky YMCA

Ben Reno-Weber, Executive Director, Kentucky Alliance of YMCAs, stated that the core strength of the YMCA is the ability to convene community partnerships at the local, state, and national level to address critical issues in the communities. The mission of the YMCA is to put Christian principles into practice through programs that build a healthy spirit, mind, and body for all. The Y extends beyond its Christian heritage to create programs that are welcoming, inviting, and accessible to all people. The YMCA has partnerships with schools, community organizations, government, and leaders across the state. The YMCA has partnered with

the Transportation Cabinet, Tourism, Arts, and Heritage Cabinet, and Department of Education to put a healthy message in areas statewide that it is most effective. The YMCA has created partnerships with Anthem, United Healthcare, CDC, and the Robert Wood Johnson Foundation to bring people who need access to health facilities to the YMCA and help them develop healthier lifestyles. Anyone who works with children needs to be held to higher standards. Complete Streets and Safe Routes to School continue to be high priorities in promoting a healthy lifestyle, healthy family life, and addressing issues of child care providers. State licensure requirements for out-of-school care should be updated to continue increasing focus on health issues.

Steve Tarver, CEO, YMCA of Greater Louisville, stated that positive health outcomes have to be associated with families, and economic and housing issues. The role of the YMCA is to provide physical infrastructure to support the sale of fresh fruits and vegetables and provide training and support. There are not enough grocery stores in some neighborhoods to provide healthy food, so the YMCA has received funds to help open stores that will help serve some of these communities. The YMCA has partnered with schools, districts, and foundations to implement the Y-5210 program that focuses on that every day children eating five fruits or vegetables, two hours or less of screen time, one hour of physical activity, and zero sugar sweetened beverages. The program is delivered to over 8,000 children per day in Jefferson, Hardin, and Hopkins counties. A significant increase in healthy behaviors due to the program has been noticed. The new practical living standards are very consistent with the components of Y-5210. The Kentucky Pediatric Society has partnered with the YMCA and Anthem Healthcare to provide a referral program in Lexington, Louisville, and Northern Kentucky. Using existing infrastructure, the YMCA is changing eating habits at the grassroots level. The problem goes beyond obesity and affects a child's self-esteem.

Dave Steele, CEO, Frankfort YMCA, the Frankfort YMCA received a \$60,000 Pioneering Healthy Communities grant. A coalition has been formed that include community representatives from the local hospital, county and state health departments, Kentucky State University, county parks, and both school systems. In 2010, the first project was to institute the Take 10 program that provided 185 notebooks to all kindergarten through fifth grade classes in Franklin County. One requirement of the grant is that funds have to be spent in the

community not at the YMCA. In the two-year community action plan two projects are to work with the YMCA-Crayon Club to do a community healthy living survey and sharing new after-school healthy eating and physical guidelines developed through the YUSA-University of Massachusetts College of Nursing and adopted by National Institute on Out of School Time.

Gail Glasser, CEO, Central Kentucky YMCA, stated that the YMCA teaches real life strategies. The YMCA is the largest child care provider in the United States with 25 million children per day, with 20,000 of these children in Kentucky. The YMCA's role is both energy balanced and provides opportunities for physical activities. Children spend 20 percent of the time in age-appropriate physical activities. YMCA employees have to be role models of healthy living. The YMCA creates community-wide opportunities for physical activity and family strengthening. Approximately 83 percent of children in Fayette County ride to school by bus or are taken by a parent, and because 50 percent of them live within a mile or less of school, they could walk or ride a bicycle. Complete Streets and Safe Routes to School are vital to help ensure children are healthy. Easy access is an important part of making healthy choices. Healthy choices require good options. The YMCA can connect existing funding and programs to local communities.

In response to a question by Representative Wuchner, Mr. Tarver stated the YMCA has programs in 72 of the 120 counties. The YMCA partners with schools in eastern Kentucky.

In response to a question by Representative Riner, Mr. Tarver stated the YMCA has been in existence in Kentucky for 158 years.

Prevention, Treatment and Costs: University of Kentucky Department of Pediatrics

Dr. Ashley Bowen, Pediatric Resident, stated that one-third of the children in the United States are overweight or obese and two-thirds of adults are overweight or obese. Body mass index (BMI) is calculated using a child's height and weight, age and sex-specific percentiles. If a child is obese in adolescence, there is a 90 percent chance of being an obese adult. Thirty-one percent of Kentucky children age 10 to 17 are considered either overweight or obese. Thirty-two percent of children ages two to five years from low-income families participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) are obese or overweight. Medical costs paid for people who are obese were \$1,429 higher than those of normal weight.

Dr. Lauren Kostelnik, Pediatric Resident, stated that forty percent of the entire healthcare budget is spent on obese-related medical conditions. A child has a 79 percent chance of becoming obese if there is one obese parent. While genes play a role in obesity, it does not account for the dramatic increase in prevalence of obesity. In 2007, only 18 percent of students in grades 9-12 met the recommendation of at least 60 minutes of aerobic physical activity daily. The medical consequences of obesity are hypertension, type 2 diabetes, coronary artery disease, hypercholesterolemia, obstructive sleep apnea, increased asthma severity, mechanical stress on joints, pseudotumor cerebri, hepatic steatosis or fatty liver, and gastrointestinal problems. The mental health consequences of obesity are social stigma, depression, low self esteem, bullying, and early puberty.

Dr. Rachel Lowdenback, Pediatric Resident, stated that the CDC strategies for preventing obesity are to address physical activity and nutrition through a coordinated school health program, maintain an active school health council and designate a school health coordinator, assess the school's health policies and programs and develop a plan for improvement, strengthen the school nutrition and physical activity policies, implement a high quality health promotion program for school staff, implement a high quality course of study in health education, implement a high quality course of study in physical education, increase opportunities for students to engage in physical activity, implement a high quality school meals program, and ensure appealing, healthy choices outside of the school meal program. Physical activity improves fitness and lowers the risk of obesity. Children who take breaks from classroom work to be physically active during the school day are often better able to concentrate on school work and may do better on standardized tests. In many schools, physical education classes and recess have been squeezed out because of increasing educational demands and tough financial times.

In response to a question by Senator Pendleton, Dr. Janeth Ceballos, Assistant Professor of Pediatrics, stated that culture has changed over the years, and because of the decrease in physical activity and bad food choices, there is a higher prevalence of obesity.

In response to questions by Representative Riner, Dr. Lowdenback stated that 35 percent of an office visit is educating parents about important issues. Dr. Bowen stated that the number one recommendation would be to increase physical activity in schools to teach children healthy lifestyles that

can help them establish good health habits throughout their lives.

Adjournment

There being no further business, the meeting was adjourned at 3:25 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

November 2, 2011

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, November 2, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Vernie McGaha, Dennis Parrett, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Tom McKee, Fred Nesler, and Tommy Turner.

Guests: Dr. B. Mark Evers, MD, Markey Cancer Center; Dr. Donald Miller, MD, PhD, Brown Cancer Center; Roger Thomas, Bill McCloskey, Joel Neaveill, Christi Marksbury, Jennifer Hudnall, Mike Tobin, and Angela Blank, Governor's Office of Agricultural Policy.

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

The October 5, 2011, minutes were approved, without objection, by voice vote, upon motion made by Senator McGaha and second by Senator Parrett.

Kentucky Lung Cancer Research Program Report

The meeting began with a progress report on the Kentucky Lung Cancer Research Program (KLCRP), which receives some tobacco settlement funds appropriations. Reporting to the committee were Dr. Donald Miller, Director of Brown Cancer Center, located at the University of Louisville, and Dr. B. Mark Evers, Director of the University of Kentucky's Markey Cancer Center.

Dr. Miller praised the General Assembly for establishing the Kentucky Lung Cancer Research Program over a decade ago. In 2000, Dr. Miller said he was surprised that U of L did not have a scientist working on cancer research. He said that establishment of the program and the tobacco settlement funds appropriations have made a difference.

Dr. Miller pointed out that cancer is a major health problem in Kentucky; the lung cancer mortality in the state is 40 percent higher than the U.S. as a

whole.

The Brown Cancer Center director highlighted some of the research work being undertaken at the institution. He said that the tobacco plant is being used to develop cancer treatments, in particular, the cervical cancer vaccine Gardasil, which is recognized as the first 100 percent effective cancer vaccine. He told Representative McKee that the drug may be tested on Kentuckians within a year. A goal in developing the vaccine is to make it inexpensive, thus within the reach in developing countries. The Gardasil work is being undertaken on conjunction with the Owensboro Cancer Research Program.

Other cancer-related research at Brown, Dr. Miller testified, revolves around inhibiting sugar metabolism in cancer sufferers, working with adult stem cells, and treating cancer with fruit extracts such as blackberries.

Using a graphic to illustrate his point, Dr. Miller described the "translational research" that involves many segments, including the state Bucks for Brains program, federal grants, and grants from the state Office of New Economy.

Following his prepared remarks, Dr. Miller responded to Co-chair Stone regarding other environmental or lifestyle issues, apart from smoking, that may contribute to Kentuckians' higher than average lung cancer rates. He indicated that while there are other factors, the high smoking rate in Kentucky is still a leading factor in lung cancer.

Also, Co-chair Hornback praised the work being done under the KLCRP and pointed to the effects of the program on everyday lives of citizens.

The committee then heard from Dr. Miller's U.K. counterpart, Dr. Evers, whose presentation covered topics that included: a discussion of the collaborative projects resulting from lung cancer research funding, the Kentucky Clinical Trials Network, and the effort to gain National Cancer Institute (NCI) designation for the Markey Cancer Center. He also touched on the "Cycle 10 Awards," in collaboration with the two institutions of higher learning.

Dr. Evers reported on the Marty Driesler Lung Cancer Research Project, established to study the prevalence of lung cancer in Kentucky. Researchers have found that 83 percent of counties in the 5th Congressional District have higher lung cancer rates than other counties. Smoking rates in the 5th District are only slightly higher than the state rate of 25 percent, thus there may be environmental carcinogen factors evident in the region. Dr. Evers described the scope of a biospecimen collection effort in that region of

Appalachia. The on-going research is being funded in part with a \$1.4 million Department of Defense grant.

The Clinical Trials Network, which involves many hospitals and other entities, has a mission of providing innovative clinical trials, support and education for research centers, and quality assurance. In addition to discussing the Clinical Trials Network, Dr. Evers described the preparations being made for possible NCI designation, which would help draw more patients, assist in recruitment, and enhance grant and funding opportunities, among other pluses.

Following his formal presentation, Dr. Evers responded to Co-chair Hornback that some cancers have hereditary "founder genes," particularly colorectal cancer. But he pointed out that, even with genetic factors, there may be something about the region that points to environmental factors.

Dr. Miller responded to Senator Gibson that he did not think there is a specific return of federal cigarette tax funds to programs like the KLCRP. Dr. Evers said that there are about 65 cancer centers in the U.S.

Dr. Evers responded to Representative Adams that some of their research has looked at the effects of second-hand smoke. Both Drs. Evers and Miller responded to Representative Stone that outside peer review is done on completed cancer research studies. Responding to Representative Nesler, Dr. Miller described the tobacco plants being used in the cancer research. He pointed out the plants are not suitable for smoking tobacco.

Governor's Office of Agricultural Policy

The committee received the monthly report from Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) in its October meeting.

Mr. Neaveill summarized the funding allocations made under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-use programs from the previous month. He also recapped amendments approved for previously funded projects. Regarding the Deceased Farm Animal Disposal Assistance Program, Mr. Neaveill responded to Representative McKee that the board in its November meeting would be discussing a continuation of the program for another year.

State projects that received funding approvals included: Fleming County Board of Education, \$78,500 in

county funds for a regional agriculture education facility; Kentucky Center for Agriculture and Rural Development (KCARD), \$600,000 grant to continue providing business support services and technical assistance to rural agribusinesses; Greenup County Farm Bureau, \$10,000 in county funds to expand an existing agricultural mobile classroom; and Green River Area Beef Improvement Group, \$20,000 in Daviess County funds to operate a youth cost-share program.

Regarding the Fleming County project, Mr. Thomas responded to Senator Gibson that he did not know why some adjacent counties did not contribute funds for the regional project, other than perhaps not having funds available. But those funds could be sought in the future, according to the speakers. Mr. Neaveill also explained to the committee why the application process for the project had been delayed. He noted that Lowe's Corporation made a significant contribution of almost \$69,000. In addition, Mr. Thomas responded to Senator Gibson that the Fleming County Board of Education would be responsible for the cost of maintenance, cleaning, and the like for the facility.

The KCARD project prompted some discussion. KCARD is a statewide organization that works with various types of agribusinesses across the state to provide specialized assistance for running a successful business. The speakers told the committee that one requirement will be that KCARD set aside funds to create an agribusiness grant facilitation program that will offer assistance to different state agencies, entities, and entrepreneurs in identifying and applying for available grant moneys. Mr. Neaveill responded to Representative Nesler that state agencies such as the GOAP and the Department of Agriculture could help publicize the grant services available under the new KCARD program. Mr. Thomas noted that an ADB project review committee had sought creation of the grant facilitation program.

Mr. Thomas assured Representative Stone that KCARD would be periodically reporting back to the GOAP and ADB on how it had used the tobacco settlement funds it received. Also, Mr. Neaveill described to Senator McGaha how KCARD apportions its funds for staff salaries, benefits, and other expenses. He said the organization sometimes needs to seek outside expertise, such as tax assistance, in its consulting work.

Regarding an applicant in Harrison County who was denied state funding, but, in turn successfully received county funding, the speakers said the equipment he wanted to buy--a spray inoculator for hay--may be added to the list of eligible items that

can be funded under CAIP programs in the future.

On another project denied funding, Jessamine County FFA Alumni Association, which sought funds to educate tobacco farmers and their families, Mr. Thomas responded to Representative Stone that the board allow county councils to award funds to leadership programs.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 11:30 a.m.

2012 Prefiled Bills

BR 4 - Representative Robert R. Damron
(09/27/11)

AN ACT relating to refunding transactions.

Create a new section of KRS Chapter 56 to define terms and to require that savings generated from reduced debt service payments due to a refunding transaction be deposited in the budget reserve trust fund account.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 8 - Representative Melvin B. Henley
(06/29/11)

AN ACT relating to taxation.

Amend KRS 132.020 to reflect the most recent tax rate for real property, provide that all tangible personal property owned by a veterans' organization exempt from income taxation under 501(c)(19) of the Internal Revenue Code shall be taxed at \$0.001 upon each \$100 of value, and make other technical changes for ease of reading; amend KRS 132.200 to exempt from local taxation all tangible personal property owned by a veterans' organization that has qualified for exemption for income taxation under 501(c)(19) of the Internal Revenue Code and the property is directly used in the organization's exempt activities; amend KRS 139.495 to exempt from sales and use tax sales of tangible personal property, digital property, or services to a veterans' organization that has qualified for exemption under 501(c)(19) of the Internal Revenue Code if the tangible personal property, digital property, or service is used in the organization's exempt activities, and exempts from sales and use tax sales of tangible personal property by the organization; EFFECTIVE August 1, 2012, and January 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 9 - Representative Sannie Overly
(06/23/11)

AN ACT relating to judicial sales.

Amend KRS 426.200 and 426.520 to require that in judicially ordered land sales that any appraisals of the land made pursuant to the court ordered sale process be publically available prior to the sale of the land.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 18 - Representative Carl Rollins II

(08/12/11)

AN ACT relating to safety inspections for official vehicles.

Create a new section of KRS Chapter 186 to require an annual safety inspection for vehicles owned or leased by the state, public postsecondary institutions, local governments, boards of education, ambulance services organized by units of government within the state, and volunteer fire department vehicles; require that the inspection be done by a mechanic with A S E certification; require affected entities to present proof of inspection before December 31, 2013, and annually thereafter; require the Transportation Cabinet to promulgate administrative regulations regarding inspection standards and out-of-service criteria for publicly owned vehicles; grant Transportation Cabinet the authority to suspend the registration for any vehicle which does not pass inspection or for which proof of inspection is not provided; provide for no fee to reinstate a registration on a vehicle whose registration was suspended under the provisions of this section; Amend KRS 186.065, 186.060, and 181.061 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 19 - Senator Tom Buford (07/07/11)

AN ACT relating to the employment of persons with criminal records in long-term care facilities, nursing facilities, and assisted living communities.

Amend KRS 216.789 to prohibit employment by a long-term care facility, nursing facility, or an assisted living community of all persons convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 22 - Representative Melvin B. Henley
(05/18/11)

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 30 - Representative Joni L. Jenkins
(05/27/11)

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 if 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 31 - Representative Ron Crimm
(06/17/11)

AN ACT relating to the promotion of organ and tissue donation.

Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 37 - Representative Stan Lee
(11/17/11)

AN ACT relating to the federal "Secure Communities" program.

Create a new section of KRS Chapter 17 to require all state and local law enforcement agencies and all state correctional facilities and jails to participate in the Department of Homeland Security, Immigration and Customs Enforcement "Secure Communities" program; prohibit state or local officials from restricting use of the program.

(Prefiled by the sponsor(s).)

BR 46 - Representative Joseph M. Fischer
(09/14/11)

AN ACT relating to property tax.

Amend KRS 132.010 to change

the definition of "compensating tax rate", and to add definitions for "Four (4%) rate", and "Taxing district"; amend KRS 132.017 and 132.0225 to conform; amend KRS 132.023 to require all taxing districts to calculate separate real and personal property tax rates; amend KRS 68.245, 157.440, 160.470, 210.480, 212.755, 65.125, 67.934, 67.938, 67A.850, 67C.125, 67C.147, 78.530, 132.012, 132.028, and 342.240 to conform; create a new section of KRS Chapter 173 to require the Department of Libraries and Archives to calculate tax rates for library taxing districts; repeal KRS 132.018, 132.024, 132.025, 132.029, 68.248 and 160.473; provide that the Act applies beginning January 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 48 - Representative Ron Crimm
(07/29/11)

AN ACT relating to naming of public properties.

Create a new section of KRS Chapter 2 to set forth the criteria for the naming of public property owned, maintained, operated, utilized, or leased by the state or any of its political subdivisions, including school districts; amend KRS 177.074 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 57 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to the school calendar and declaring an emergency.

Amend KRS 158.070 to reiterate school closure on the day of a Presidential election; permit a school district to adjust its calendar to keep schools open on the days of a regular election, a special election, and a primary election if no school in the district is used as a polling place; allow a district to schedule election days as instructional days or make-up days for purposes of recouping instructional time missed due to weather-related, safety, or health emergencies or other disasters; direct the Department of Education to approve school calendars amended pursuant to this Act for the 2011-2012 school year; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 58 - Representative Brad Montell
(10/18/11)

AN ACT relating to unauthorized aliens.

Create new sections of KRS

Chapter 45A to require contractors who have public contracts to use E-verify and prohibit the hiring of unauthorized aliens for work on a public contract; permit civil enforcement and cancellation of contracts and injunctions, and impose a five year ban if the provisions are violated; create new sections of KRS Chapter 337 to require employers with eleven or more employees to register and use E-verify and abide by federal law prohibiting the hiring of unauthorized aliens; require violators to lose tax incentives and credits, to repay grants, loans, and taxes that have been forgiven; recoup unemployment insurance benefits paid to unauthorized aliens; suspend or deny licenses; require the Attorney General to collect and maintain a database with the employers using E-verify; create new sections of KRS Chapters 139, 141, 148, 154 subtitle 20, 335B, and 341, and amend KRS 141.010 to conform.

(Prefiled by the sponsor(s).)

BR 63 - Representative Lonnie Napier (07/05/11)

AN ACT relating to eligibility for public assistance.

Amend KRS 205.200 to require the Cabinet for Health and Family Services (CHFS) to implement a substance abuse screening program for applicants and recipients of public assistance; permit the CHFS to design the program and utilize testing of blood or urine or other reliable methods of substance abuse detection; state conditions under which an adult person is ineligible for public assistance; permit substance abuse testing to occur only when a caseworker suspects substance abuse at the initial interview or at any other occasion when the caseworker comes to suspect that the recipient is abusing controlled substances; require the CHFS to promulgate regulations governing the program and testing including requirements that applicants pay for all substance abuse screening costs and receive a later reimbursement if the test is passed; grant the right to additional screenings for applicants that fail a test; require both parents in two-parent families to comply with screening requirements; require that an individual who fails a test receive a list of licensed substance abuse treatment providers in his or her area; require passage of a drug test before receiving benefits; permit parents or guardians who fail a test to designate another individual to receive benefits for the parent's minor children; require designated individuals to pass substance abuse screenings; create a 60-day grace period to enter a treatment program after the initial positive test; require individuals to pay for a test at the end of the 60-day grace period, and provide that, if they pass that test they must pass two additional randomized testings during the next 24 months, or if an individual tests positive for a controlled substance after the 60-day grace period, they must show evidence

of having entered a substance abuse treatment program within 14 days, during which time, benefits may be suspended and only be payable for the benefit of any children in that recipient's home.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 68 - Senator Damon Thayer (10/24/11)

A RESOLUTION adjourning the Senate in loving memory and honor of Brett Patrick Benton.

Adjourn in loving memory and honor of Brett Patrick Benton.

(Prefiled by the sponsor(s).)

BR 75 - Representative Carl Rollins II (08/25/11)

AN ACT relating to educator evaluation.

Amend KRS 156.557 to require the Kentucky Board of Education to establish a statewide system of evaluation for all certified personnel; require the Department of Education, in partnership with professional organizations, to develop the system prior to the 2013-2014 school year; require the board to establish the weights to be applied to each performance criteria; delete three-phase alternative evaluation plan; allow waiver of evaluation plan under certain conditions.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 76 - Representative Carl Rollins II (08/10/11)

AN ACT relating to districts of innovation.

Create a new section of KRS Chapter 156 to define "district of innovation" and related terms; authorize the Kentucky Board of Education to approve districts of innovation, not to exceed five (5) districts per year; limit initial approval and subsequent renewals to five year periods; direct the board to promulgate administrative regulations to prescribe the conditions and procedures to be used by a local board of education to be approved as a district of innovation; specify what the administrative regulations shall address; create a new section of KRS Chapter 160 to describe the requirements for a district to be an applicant as a district of innovation; prescribe the statutory requirements with which schools of innovation within districts of innovation must comply; require 70% of eligible employees in a school to vote in favor of becoming a school of innovation before the school is eligible to be a participant; describe the conditions under which a school may be exempt from KRS 160.345 or sections thereof; and identify areas in which districts may request approval of practices that are different than current statutory requirements.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 77 - Representative Rick G. Nelson (11/02/11)

AN ACT relating to Kentucky educational excellence scholarship awards and making an appropriation therefor.

Amend KRS 164.7879 to raise the KEES minimum base award GPA from 2.5 to 3.0 for students who enter ninth grade during the 2012-2013 school year and thereafter; raise from 15 to 18 the minimum ACT score for a supplemental KEES award and raise the supplemental award amount for students who enter ninth grade during the 2012-2013 school year and thereafter; and amend KRS 164.7874, KRS 164.7881, and KRS 164.7885 to conform.

(Prefiled by the sponsor(s).)

BR 83 - Representative Susan Westrom (10/10/11)

AN ACT relating to claims against the Commonwealth.

Amend KRS 41.370 to require the state treasurer to present stale checks to the General Assembly for consideration in each annual regular session, and to repeal the check reissuance fee.

(Prefiled by the sponsor(s).)

BR 84 - Representative Brent Yonts (07/12/11)

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 to 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 85 - Representative Brent Yonts

(07/29/11)

AN ACT relating to a high school technology diploma.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations for a high school technology diploma; amend KRS 158.7603, 158.140, and 313.040 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 87 - Senator Denise Harper Angel (07/28/11)

AN ACT relating to fingerprint background checks of long-term care employees.

Create a new section of KRS Chapter 209 to define terms and require that adult institutional or community-based long-term care service providers conduct a fingerprint check before hiring an applicant.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 88 - Representative Jim DeCesare (07/07/11)

A RESOLUTION requesting the President of the United States and the Attorney General of the United States to abandon plans to try Waad Ramadan Alwan and Mohanad Shareef Hammadi in federal court in Bowling Green, Kentucky and to transfer them to the detention facility at Guantanamo, Cuba for trial by military tribunal.

Urge the President of the United States and the Attorney General of the United States to move the trial of two terrorism suspects from the federal court in Bowling Green, Kentucky to a U.S. Military Tribunal at the Guantanamo, Cuba detention facility.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Veterans, Military Affairs, and Public Protection

BR 104 - Senator Dennis Parrett (10/12/11)

AN ACT relating to an alternative high school diploma.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations for an alternative high school diploma for students with disabilities completing a modified curriculum and an individualized course of study; amend KRS 158.140 to require local boards of education to award the diploma to eligible students; amend KRS 313.040 to conform.

(Prefiled by the sponsor(s).)

BR 108 - Representative Melvin B. Henley (07/27/11)

AN ACT relating to children.
Amend KRS 72.992 relating to failing to report a death to increase penalty to a Class D felony if the deceased is a child eight years of age or younger; create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child eight years of age or younger to report to law enforcement or a 911 public safety answering point within twenty-four hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 111 - Representative Richard Henderson, Representative Larry Clark, Representative Dennis Horlander, Representative Dennis Keene (07/08/11)

AN ACT relating to children.
Create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child twelve years of age or younger to report to law enforcement or a 911 public safety answering point within twelve hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony; name the act "Caylee's Law."
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 112 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Thomas O'Daniel.
Adjourn in loving memory and honor of Thomas O'Daniel.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 114 - Representative Leslie Combs (10/13/11)

A CONCURRENT RESOLUTION establishing a Timber Theft and Trespass Reduction Task Force.
Direct the Legislative Research Commission to establish a Timber Theft and Trespass Reduction Task Force; provide that the purpose of the task force is to study issues regarding timber theft and trespass and to develop consensus recommendations to address those issues; name the membership of the task force; require the task force to meet three times before submitting its final report; require its final report to be submitted to the Legislative Research Commission by December 7, 2012; and provide that the Legislative Research Commission has authority to alternatively assign the issues identified in the Resolution to interim joint

committees or subcommittees thereof.
(Prefiled by the sponsor(s).)

BR 116 - Representative Brad Montell (11/01/11)

AN ACT relating to the Great Schools Tax Credit Program.
Create a new section of KRS Chapter 141 to establish a Great Schools Tax Credit Program; provide a nonrefundable credit against the income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, for contributions made to a scholarship organization that is organized solely for the purpose of receiving and distributing cash contributions to provide educational scholarships to eligible students at qualified schools; amend KRS 141.010 to exclude from the definition of "adjusted gross income" the amount received by an eligible student or by an individual on behalf of an eligible student as an educational scholarship under the program; amend KRS 141.0205 to provide the order in which the credit may be claimed.

(Prefiled by the sponsor(s).)

BR 117 - Representative Brad Montell (11/16/11)

AN ACT relating to charter schools and making an appropriation therefor.
Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public charter schools; define terms; establish the Kentucky Public Charter School Commission and identify membership selection and responsibilities of members; outline the requirements and limitations on the establishment of charter schools including identification of charter school authorizers; describe charter school application, renewal, and revocation processes; establish the Kentucky Public Charter School Commission trust fund and identify uses of the fund; require the commissioner of education to distribute charter school information to potential authorizers; create a new section of KRS Chapter 159 to identify student enrollment and withdrawal requirements to be followed by a charter school; create a new section of KRS Chapter 161 to identify employment conditions for charter school staff; create a new section of KRS Chapter 157 to require local, state, and federal funds to be distributed to charter schools using formulas and allocation processes used in noncharter schools; amend KRS 161.220 to include a teacher employed by a board of directors of a public charter school as a member within the state retirement system; amend KRS 161.220 to include employees of boards of directors of public charter schools in the state-sponsored retirement system; amend KRS 78.510 to include noncertified employees of public charter schools in the state-sponsored

retirement system.
(Prefiled by the sponsor(s).)

BR 119 - Senator Denise Harper Angel (07/11/11)

AN ACT relating to children.
Create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child twelve years of age or younger to report to law enforcement or a 911 public safety answering point within twelve hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony; name the act "Caylee's Law."
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 120 - Representative Ron Crimm (07/29/11)

AN ACT relating to qualifications for military service.
Amend KRS 211.760 to require tattoo facilities to conspicuously display a notice in a prominent place easily seen by patrons; set minimum dimensions of notice sign at 11 by 14 inches with 1 inch letters; direct the cabinet to supply the sign to the tattoo facilities; require the notice to warn that any tattoo on the neck, forearm, or lower leg automatically disqualifies the wearer from military service in the United States Armed Forces.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Licensing and Occupations

BR 121 - Representative Ron Crimm (07/29/11)

AN ACT relating to the gross revenues and excise tax fund and declaring an emergency.
Amend KRS 136.650 to increase the hold harmless amount for fiscal year 2012-2013 and every fiscal year thereafter; amend KRS 136.654 to require the Department of Revenue to determine if it is necessary for a participating political subdivision to certify its total tax receipt; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 122 - Representative Ron Crimm (07/29/11)

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).)
To: Interim Joint Committee on Transportation

BR 123 - Representative Ron Crimm (07/29/11)

AN ACT relating to domestic relations.
Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; set forth restrictions.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 131 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Willie Mathis, Jr.
Adjourn in loving memory and honor of Willie Mathis, Jr..
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 132 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Margaret B. Deters.
Adjourn in loving memory and honor of Margaret B. Deters.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 135 - Representative Alecia Webb-Edgington (09/06/11)

AN ACT relating to special license plates.
Amend KRS 186.162 to establish a Gold Star Sibling special license plate and set forth required fees; provide Disabled Veterans license plates at no charge to veterans with a 50% or greater service-connected disability; amend KRS 186.166 to provide for perpetual production of the Gold Star Sibling special license plates; amend KRS 186.164 to require the Transportation Cabinet to promulgate regulations outlining documentation required to receive a Gold Star Sibling special license plate; limit eligibility for a Gold Star Sibling special license plate to siblings of service members whose mothers are eligible for membership in the Gold Star Mothers of America; delay effective date until January 1, 2013.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 136 - Representative Alecia Webb-Edgington (09/06/11)

AN ACT relating to the duty to

report a dead body.

Amend KRS 72.020 relating to reporting of deaths to require reporting of knowledge of a death as well as possession of a dead body as reportable and add the Department of Kentucky State Police as an agency to which the report may be made; amend KRS 72.990 relating to penalties to add interfering with a peace officer in a death investigation as an offense and increase the penalty for failure to report or interfering with a coroner or peace officer to a Class D felony.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 141 - Representative Bill Farmer (10/17/11)

AN ACT relating to the sale of copper scrap in the Commonwealth.

Create a new section of KRS Chapter 433 to define “nonferrous metal” and “secondary metals recycler”; prohibit a secondary metals recycler from purchasing copper from any person except a licensed heating, ventilation, and air conditioning contractor, electrical contractor, plumber, homebuilder, remodeler, or public or private utility; require secondary metals recycler to report at end of each business day any copper transaction to sheriff and local police department; prohibit an unauthorized person from selling or attempting to sell copper to a secondary metals recycler; establish penalties up to a Class D felony for unlawful purchase or disposition of copper; create a new section of KRS Chapter 512 to establish the crime of unlawful acts relating to acquiring metals; institute penalties up to a Class D felony depending on value of and damage to property; amend KRS 15.232 and 65.871 to conform.

(Prefiled by the sponsor(s).)

BR 145 - Senator Jimmy Higdon (10/14/11)

AN ACT proposing to amend Sections 36 and 42 of the Constitution of Kentucky relating to even-year sessions of the General Assembly.

Propose to amend Sections 36 and 42 of the Constitution of Kentucky to limit even-year sessions to 30 days.

(Prefiled by the sponsor(s).)

BR 149 - Senator Jimmy Higdon (10/26/11)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators’ Retirement Plan if the member does not have service in the other state-administered retirement systems prior to December 31, 2014.

(Prefiled by the sponsor(s).)

BR 151 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to substance abuse screening for vocational education recipients.

Create a new section of KRS Chapter 151B to establish a substance abuse screening program for adult persons receiving vocational education training, permit the use of blood or urine testing or written questionnaires in the substance abuse screening, require testing as a condition precedent to the receipt of training, prohibit receipt of training for 90 days following the first positive test, and for one year after each subsequent positive test, require the executive director to promulgate administrative regulations and grant permissive authority to require additional randomized testing and to charge a fee to cover the expenses of implementing the program.

(Prefiled by the sponsor(s).)

BR 152 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to school entrance age.

Amend KRS 158.030 to require a child to be six years of age by August 1 rather than October 1 to enter a public school; permit a child who is five years of age by August 1 rather than October 1 to enter a primary school program.

(Prefiled by the sponsor(s).)

BR 154 - Representative Richard Henderson (09/19/11)

AN ACT relating to the Veterans’ Personal Loan Program and making an appropriation therefor.

Appropriate \$5 million during fiscal year 2012-2013 from the General Fund for the Veterans’ Personal Loan Program.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Veterans, Military Affairs, and Public Protection

BR 158 - Representative Tom Burch (08/18/11)

AN ACT relating to the accreditation of health departments and making an appropriation therefor.

Create a new section of to create the Kentucky Commission on Public Health within the Public Health Leadership Institute at the University of Kentucky under KRS Chapter 164; establish membership and duties of the commission including that all health departments achieve national accreditation and maintain accreditation by the national Public Health Accreditation Board, by December 31, 2020; require the commission to submit an annual report; appropriate \$500,000 to operate the commission.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 159 - Senator Jack Westwood (08/11/11)

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 of KRS Chapter 156 to require the Department of Education to issue core content standards, assess student progress, and develop new courses relevant to college and career readiness; create a new section of 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 165 - Senator Denise Harper Angel (08/12/11)

AN ACT relating to school collection of data on body mass index, height, and weight.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations to include the body mass index (BMI) percentile, height, and weight on preventative health care examination forms; require the data to be submitted to the Department of Education in a manner approved by the board that does not identify any individual student; require the department to share data only with the Cabinet for Health and Family Services; require that any use of the data abide by HIPPA privacy rules.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 166 - Senator Denise Harper Angel (10/14/11)

AN ACT relating to dating violence.

Amend KRS 403.720 to include persons in dating relationships within the coverage of Kentucky’s domestic violence laws.

(Prefiled by the sponsor(s).)

BR 175 - Senator John Schickel (09/07/11)

AN ACT relating to the sale of alcoholic beverages at restaurants.

Amend KRS 241.010 to specify that restaurants must receive at least fifty percent of their food and beverage income from the sale of food.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 188 - Senator Jimmy Higdon (10/07/11)

AN ACT relating to pain management facilities and declaring an emergency.

Create a new section of Chapter KRS 311 to define “board”, “facility”, “physician”, and “pain management facility” and to require that all pain management facilities be licensed; specify ownership requirements; specify employee requirements; require the State Board of Medical Licensure to promulgate administrative regulations related to pain management facilities; amend KRS 311.610 and 311.990 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 189 - Representative Michael J. Nemes (09/07/11)

AN ACT proposing to create a new section of the Constitution of Kentucky and to amend Section 226 of the Constitution of Kentucky relating to gaming.

Propose to create a new section of the Constitution of Kentucky and to amend Section 226 of the Constitution of Kentucky to authorize the General Assembly to provide a means whereby the sense of the people of any county may be taken as to whether casinos, including the operation of gaming at horse racing tracks, will be permitted in the county; submit to the voters for ratification or rejection; include ballot language.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 193 - Representative Kelly Flood (10/21/11)

AN ACT relating to status offenders.

Amend KRS 630.050 to require that persons filing juvenile status offense complaints provide specified supporting documentation for inclusion and presentation to the court; create a new section of KRS Chapter 630 to establish time frames for the expiration of valid court orders; amend KRS 610.265 and 630.010 to restrict the secure detention of status offenders; amend KRS 630.080 to clarify the contents necessary in dispositional reports; create a new section of KRS Chapter 600 and amend KRS 610.020 to incorporate federal requirements for the release of educational records to the juvenile justice system; amend KRS 610.030 and 610.060 to conform.

(Prefiled by the sponsor(s).)

BR 197 - Representative Kevin Sinnette (08/31/11)

AN ACT relating to utility franchises.

Amend KRS 96.010 to prohibit bidders for city utility franchises from recovering the franchise fee from ratepayers through fees or surcharges on their bills.

(Prefiled by the sponsor(s).)

To: Interim Joint Special Subcommittee on Energy

BR 201 - Senator Joey Pendleton (09/28/11)

A RESOLUTION adjourning the Senate in loving memory and honor of our friend and former colleague, Representative John Adams.

Memorialize Representative John Adams.

(Prefiled by the sponsor(s).)

BR 204 - Representative Sara Beth Gregory (10/07/11)

AN ACT relating to civil actions.

Create a new section of KRS Chapter 411 to specify procedures for handling comparative fault actions relating to adding parties and answers to complaints.

(Prefiled by the sponsor(s).)

BR 209 - Representative Kevin Sinnette (08/31/11)

AN ACT relating to motor vehicle personal injury reparation benefits.

Amend KRS 304.39-241 to authorize an insured to direct the payment of motor vehicle reparation benefits for medical expenses arising from a covered loss to a health benefit plan, Medicaid, Medicare, a Medicare supplement provider, or any other provider that has paid related medical expenses.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 211 - Representative Jim Wayne (09/09/11)

AN ACT relating to public financing for judicial campaigns.

Create new sections of KRS Chapter 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 administrative 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; EFFECTIVE January 1, 2012.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 233 - Representative Martha Jane King, Representative Dwight D. Butler (09/29/11)

AN ACT relating to tax credits for hiring legally blind or severely disabled individuals.

Create a new section of KRS Chapter 141 to provide a nonrefundable income tax credit for tax years beginning on or after January 1, 2013, for taxpayers who contract with a resident nonprofit organization for services performed by individuals who are legally blind or severely disabled; amend KRS 141.0205 to provide the order in which the credit may be claimed.

(Prefiled by the sponsor(s).)

BR 234 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to tourist and convention commissions.

Amend KRS 91A.360 to increase the total membership of local tourist and convention commissions in cities of the second through sixth classes and counties containing such cities from seven to nine; increase the number of restaurant association representatives from one to three.

(Prefiled by the sponsor(s).)

BR 237 - Representative Dennis Horlander (10/24/11)

AN ACT relating to filing deeds in lieu of foreclosure in the county clerk's office.

Amend KRS 382.110, relating to the recording of deeds and instruments, to require a mortgage holder to file a deed in lieu of foreclosure with the county clerk within 30 days of the execution of the instrument's execution; amend KRS 382.990 to assess a penalty in the form of a violation of law for any mortgage holder who fails to file a deed in lieu of foreclosure pursuant to Section 1 of the Act; amend

KRS 142.050, relating to the assessment of a transfer tax on property, to exempt filing deeds in lieu of foreclosure filed pursuant to Section 1 of this Act from the transfer tax.

(Prefiled by the sponsor(s).)

BR 239 - Representative Dennis Keene (10/27/11)

AN ACT relating to the distribution of unsolicited advertising on private property.

Amend KRS 512.070 to include within the offense of criminal littering a business or organization which causes any unsolicited advertising or materials to be placed on the lawn, walkway or driveway of privately owned property, or placed in a manner which permits the elements to deposit the unsolicited advertising or material onto a lawn, walkway, or driveway; permit a local government to enact ordinances that affect unsolicited advertising or materials within its jurisdiction.

(Prefiled by the sponsor(s).)

BR 240 - Senator Jimmy Higdon (10/26/11)

AN ACT relating to retirement and declaring an emergency.

Amend KRS 6.505 to close the Legislators' Retirement Plan to legislators who have not previously participated in the plan and who begin their first term of office on or after July 1, 2012; create new sections of KRS Chapter 6 to establish the Legislators' Defined Contribution Plan for legislators who begin their first term of office on or after July 1, 2012; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators' Defined Contribution Plan; provide an employer match of up to five percent of the legislator's wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at six years; provide that the benefits provided by the Legislators' Defined Contribution Plan shall not constitute an inviolable contract of the Commonwealth; amend KRS 18A.245 to establish responsibilities of the board of the Kentucky Deferred Compensation Authority to administer the Legislators' Defined Contribution Plan; amend KRS 61.510 governing the Kentucky Retirement Systems to clarify that a legislator who begin his or her first term of office on or after July 1, 2012, shall not participate in these plans as a result of service in the General Assembly; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 245 - Representative Linda Belcher (11/10/11)

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 to 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 to provide 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; provide short title; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 246 - Representative Michael J. Nemes (09/07/11)

AN ACT relating to the provision for and control of casino gaming and making an appropriation therefor.

Establish KRS Chapter 239 and create new sections to define "authorizing county or counties," "casino," "commission," "county legislative body," "department," "electronic gaming device," "full casino," "gross gaming revenue," "handle," "licensee," and "limited casino"; create the Kentucky Gaming Commission, assign powers and duties to the commission; establish executive director position; make commission, the executive director, and employees subject to executive branch code of ethics; require county election to authorize licensing of casino within county; require sheriff to advertise local option election for gaming; provide for procedures on local option elections for gaming not held on primary and regular election days; require the county board of elections to certify the results; establish commission as agency to solicit bids for casino gaming licenses and provide criteria for advertising the bid; establish procedure for evaluating bids for full casinos; provide bidding rights for racing associations; specify licensing requirements for full casinos, manufacturers, and suppliers; prohibit selling, leasing, or otherwise furnishing gaming supplies without a license; provide the option of limited casinos for racing associations; specify licensing requirements for limited casinos; prohibit any one under 21 years of age from placing a wager at a casino or being permitted access to a casino; provide for occupational licenses; grant the commission authority to initiate disciplinary action; provide grievance procedure; exempt licensed gaming

devices from federal restrictions; grant the commission the authority to define and limit permissible games; provide for the exclusion of certain persons from casinos; require the commission to develop programs for education and treatment of problem gamblers; define “cheat” and provide penalties for cheating; amend KRS 15.380 to establish gaming commission employees as peace officers; create a new section of KRS Chapter 138 to establish a wagering and an admissions tax; amend KRS 243.500 to exempt licensed casino gaming; amend KRS 243.505 to include licensed casino gaming; amend KRS 372.005 to include KRS Chapter 239; amend KRS 525.090 to exempt casino gaming; amend KRS 528.010 to gaming licensed under KRS Chapter 239; amend KRS 528.020 to exempt gambling devices operated under KRS Chapter 239; amend KRS 528.070 to exempt licensed gambling activity; amend KRS 528.080 to exempt those with a license issued under KRS Chapter 239; amend KRS Chapter 528.100 to exempt authorized casino gaming.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 248 - Representative Rick G. Nelson (10/20/11)

AN ACT relating to the employment of public school teachers.

Amend KRS 160.345 to require teacher vacancies to be filled by qualified teachers certified through a regular certification program before considering applicants certified through an alternative certification program.

(Prefiled by the sponsor(s).)

BR 261 - Senator Joey Pendleton (09/28/11)

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 to promulgate administrative regulations to carry out the new sections; require the sheriff to monitor and randomly test industrial hemp fields; assess a fee of five dollars per acre for every acre of industrial hemp grown, with a minimum fee of 150 dollars, to be divided equally between the department and the appropriate sheriff’s department; require licensees to provide the department 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; amend KRS 218A.010 to conform.

(Prefiled by the sponsor(s).)

BR 272 - Representative Terry Mills (09/29/11)

AN ACT relating to optional school bus advertising.

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; identify annual reporting requirements.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 275 - Representative Jim Glenn, Representative Bob M. DeWeese (10/13/11)

AN ACT relating to the Colon Cancer Screening Program and making an appropriation therefor.

Amend KRS 214.542 to require the Department for Public Health to adopt a schedule of income-based fees to be charged for colon cancer screening; APPROPRIATION

(Prefiled by the sponsor(s).)

BR 281 - Representative Linda Belcher (11/02/11)

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

students 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 five 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 five.

(Prefiled by the sponsor(s).)

BR 282 - Representative Linda Belcher (11/02/11)

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, 2013, in mathematics by August 1, 2014, and behavior by August 1, 2015; require the Department of Education 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, 2013, and annually thereafter; amend KRS 157.200 to conform with the federal definition of a “specific learning disability.”

(Prefiled by the sponsor(s).)

BR 283 - Representative Linda Belcher (11/02/11)

AN ACT relating to tuition for foster children.

Amend KRS 164.2847 to permit tuition waivers for a high school student enrolled in a dual credit or dual enrollment course in high school.

(Prefiled by the sponsor(s).)

BR 284 - Representative Linda Belcher (11/02/11)

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).)

BR 286 - Representative Darryl T. Owens (11/15/11)

AN ACT relating to paternity.

Amend KRS 406.005 to define a child born out of wedlock to include a child born to a married woman by a man other than her husband; amend KRS 406.011 to conform.

(Prefiled by the sponsor(s).)

BR 316 - Representative Fitz Steele (10/12/11)

AN ACT relating to mental health.

Amend KRS 202A.410 to add judges and witnesses to the list of persons to be notified upon the release or escape of an involuntarily committed person.

(Prefiled by the sponsor(s).)

BR 320 - Senator Jack Westwood (11/17/11)

AN ACT relating to shock probation.

Amend KRS 439.265, relating to shock probation, to prohibit shock probation if a person is convicted of violating KRS 507.040, relating to manslaughter in the second degree, or KRS 507.050, relating to reckless homicide, and a violation of KRS 189A.010, relating to driving under the influence arising from the same incident; permit the victim’s living next of kin to ask the court to permit shock probation.

(Prefiled by the sponsor(s).)

BR 323 - Representative Ron Crimm (10/31/11)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators’ Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2012.

(Prefiled by the sponsor(s).)

BR 329 - Representative Kim King (11/18/11)

A RESOLUTION adopting a Rule of the House of Representatives, relating to state fiscal measures.

Adopt a Rule for the House of Representatives to require roll call votes on any appropriation or revenue-raising measure voted upon in the House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the House or a committee thereof; require separate House vote for appropriation or revenue measures; require House committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

BR 330 - Representative Kim King (11/18/11)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any appropriation or revenue raising measure voted upon in the Senate or House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for appropriations or revenue measures; require committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

BR 350 - Representative Dennis Keene

(10/27/11)

AN ACT relating to driving under the influence and making an appropriation therefor.

Replace provisions of the bill with new sections to amend KRS 189A.005 to expand the types of allowable ignition interlock devices; amend KRS 189A.010 to include driving the wrong way on a four-lane highway in the list of aggravating circumstances for DUI; amend KRS 189A.070 relating to license revocations to provide for new license revocations periods subject to conditional reinstatement if the offender participates in the ignition interlock program; amend KRS 189A.085 to require license plate impoundment only during the period that a person's license is revoked; amend KRS 189A.340 to specify the circumstances and timelines during which a license may be conditionally reinstated contingent upon interlock usage and to delineate the terms, conditions, and operation of the ignition interlock program; amend KRS 189A.345 to provide the penalty for operating a vehicle without an interlock when one is required; create a new section of KRS Chapter 189A to establish an ignition interlock assistance fund operated by the Transportation Cabinet for indigent offenders; create a new section of KRS Chapter 189A to allow the Transportation Cabinet to promulgate regulations related to the bill; create a new section of KRS Chapter 189A to allow offenders committing an offense prior to the effective date of the bill to opt to be governed by the bill's provisions; amend KRS 189A.410 to limit the availability of hardship licenses to persons committing offenses prior to the effective date of the bill; amend KRS 186.572 to require the imposition of sufficient points to prohibit full re-licensure with the points being removed only after the offender has been fully compliant with ignition interlock usage for a full 120 day period; amend KRS 189A.090 to conform; amend KRS 189A.050 to require a person convicted of DUI to pay the cost of drawing blood for testing; amend KRS 189A.103 to provide that a DUI suspect shall bear the cost of any additional testing done of the suspect's blood, breath, or urine if the additional testing is done at the request of the suspect and after the testing directed by the arresting officer.

(Prefiled by the sponsor(s).)

BR 368 - Representative Keith Hall (10/21/11)

AN ACT relating to the distribution of coal severance tax revenues.

Amend KRS 342.122 to delete language requiring the transfer of funds from coal severance tax receipts to the benefit reserve fund of the Kentucky Worker's Compensation Funding Commission; amend KRS 42.4582, 42.4585, 164.7891, and 164.7890 to conform; repeal KRS 48.112.

(Prefiled by the sponsor(s).)

BR 386 - Representative Melvin B. Henley (11/18/11)

A JOINT RESOLUTION directing the Transportation Cabinet to erect roadside signs in Calloway County identifying the town of Wiswell.

Direct the Transportation Cabinet to erect roadside signs in Calloway County identifying the town of Wiswell.

(Prefiled by the sponsor(s).)

BR 390 - Representative Wilson Stone (11/09/11)

AN ACT relating to concealed deadly weapons.

Amend KRS 237.138 to delete reference to the 2004 version of the federal Law Enforcement Officer Safety Act, retain reference to the Law Enforcement Officer Safety Act; require Department of Kentucky State Police to promulgate administrative regulations.

(Prefiled by the sponsor(s).)

BR 396 - Representative Brent Yonts (11/18/11)

AN ACT relating to controlled substances, including controlled substance precursors.

Create a new section of KRS Chapter 27A to require the Administrative Office of the Courts to report information relating to defendants convicted of either offenses in KRS Chapter 218A relating to methamphetamine or any crimes relating to the theft of anhydrous ammonia to the Office of Drug Control Policy; create a new section of KRS Chapter 15A to require the Office of Drug Control Policy to institute a Precursor Block List as a part of the Kentucky Electronic Methamphetamine Precursor Tracking system to prohibit persons convicted of offenses stated above from purchasing ephedrine, pseudoephedrine, and phenylpropanolamine for not less than five years following conviction; amend KRS 218A.1437 relating to possession of methamphetamine precursors to reduce amount that may be possessed from 9 grams to 7 1/2 grams before a prima facie case is created; create a new section of KRS Chapter 218A to permit persons prohibited from purchasing methamphetamine precursors to possess them under a prescription; amend KRS 218A.1446 to encourage retail dispensers to post signage warning of prohibitions relating to ephedrine, pseudoephedrine, and phenylpropanolamine and to create a yearly 60 gram cap for the purchase of these products; amend KRS 218A.1438 to add an affirmative defense and make a technical correction; create a new section of KRS Chapter 439 to require the Parole Board to order the parolee to participate in the Precursor Block List and to refrain from purchasing methamphetamine precursors for five years after release from parole; create a new section of KRS Chapter 533 to place a defendant on probation,

home incarceration, or conditional discharge on the Precursor Block List for five years; provide that the act may be known as the Cheyenne Albro Combat Methamphetamine Act.

(Prefiled by the sponsor(s).)

BR 400 - Senator Dennis Parrett (11/15/11)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new participants effective August 1, 2012; amend KRS 6.515 to increase the cost of purchasing active duty military service to the full actuarial cost in the Legislators' Retirement Plan, to prohibit service purchases made on or after August 1, 2012, from being used to vest for retiree health benefits in the Legislators' Retirement Plan, and to require service purchased on or after August 1, 2012, in the Legislators' Retirement Plan to assume the earliest retirement date and cost-of-living adjustments in determining the appropriate actuarial cost; amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators' Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2012; amend KRS 61.680 to conform and to make technical amendments; EFFECTIVE August 1, 2012.

(Prefiled by the sponsor(s).)

BR 401 - Representative Linda Belcher (11/09/11)

AN ACT relating to incestuous relationships.

Amend KRS 530.020 relating to incest to include step-grandparent and step-grandchild within the prohibited relationships.

(Prefiled by the sponsor(s).)

BR 403 - Representative Linda Belcher (11/17/11)

AN ACT relating to drugs.

Amend KRS 217.015 to include drugs containing non-liquid ephedrine, pseudoephedrine, or phenylpropanolamine within the definition of a legend drug; amend KRS 217.182 to limit the amount of ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs available within any one-month period and to exempt drug products obtained lawfully elsewhere within certain limits; amend KRS 218A.202 to include ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs within the coverage of Kentucky's prescription monitoring system; sunset provisions on the effective date for legislation enacted by the 2015 General Assembly.

(Prefiled by the sponsor(s).)

BR 410 - Representative Wilson Stone (11/16/11)

AN ACT relating to economic development.

Amends KRS 154.32-090 to allow for a local jurisdiction that does not impose an occupational license fee to request a waiver from the KY Economic Development Finance Authority to offer alternative inducements.

(Prefiled by the sponsor(s).)

BR 412 - Representative Tanya Pullin (11/09/11)

AN ACT relating to promotional increments for state employees.

Amend KRS 18A.110 to allow the secretary of the Personnel Cabinet to approve the salary of a full-time state employee with status who is promoted or reclassified to a higher pay grade to the same salary level that would be available to new appointments in that grade.

(Prefiled by the sponsor(s).)

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* - denotes primary sponsorship of BRs

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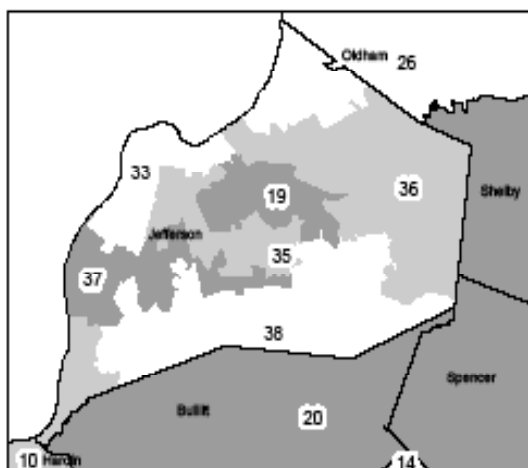
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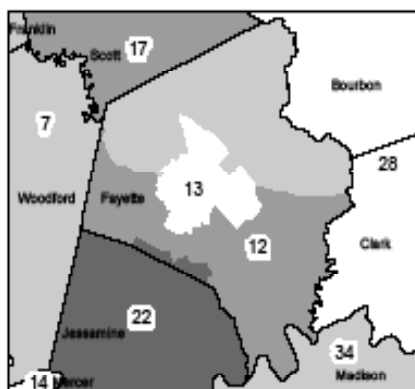
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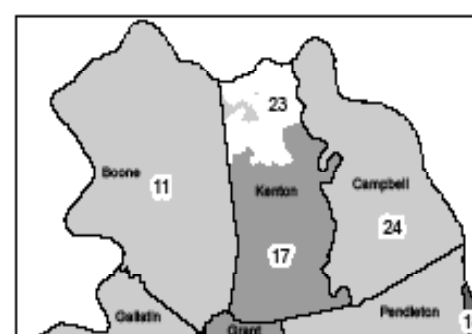
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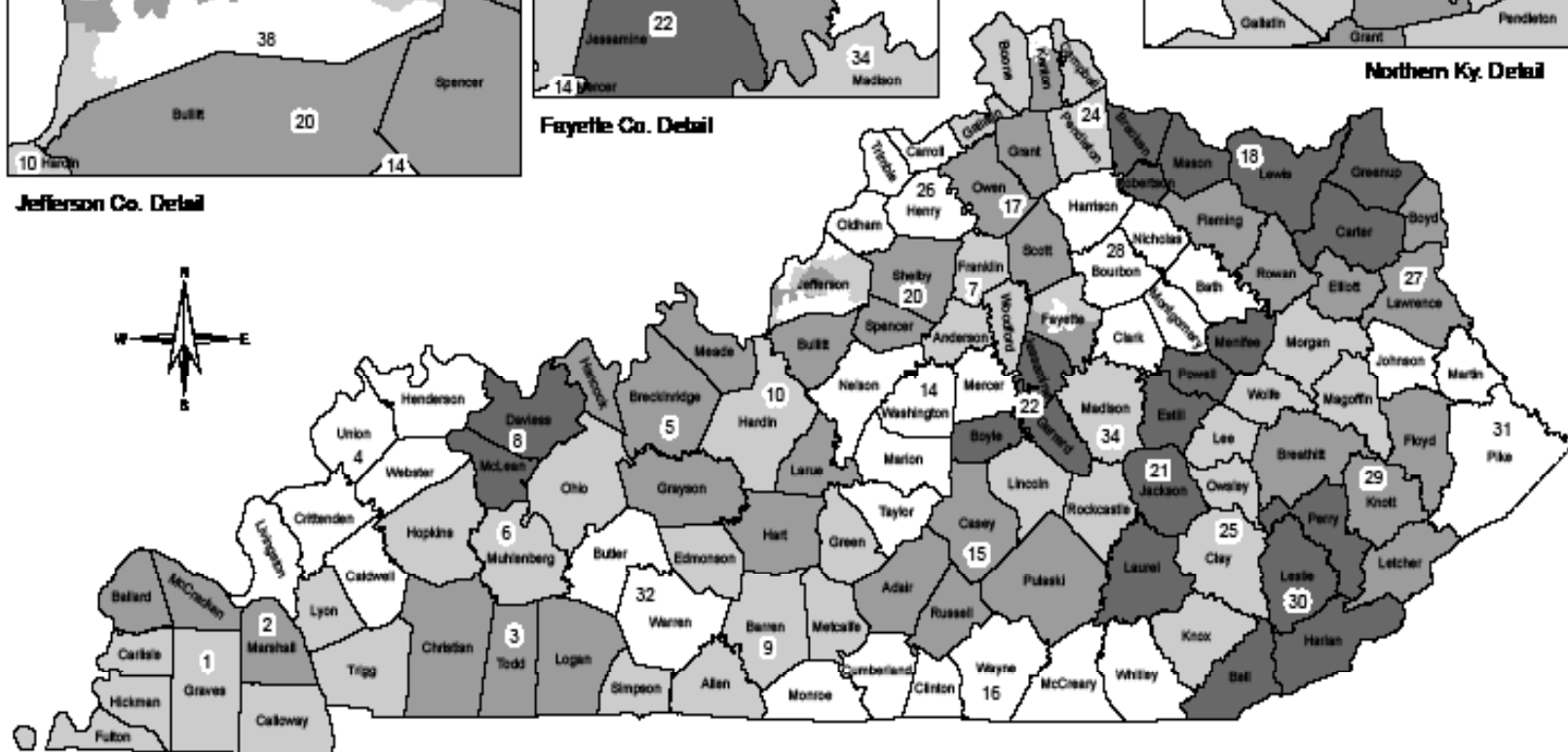
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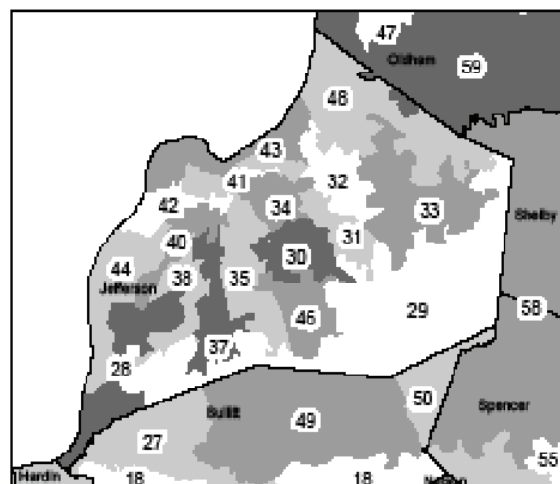


2002 Kentucky Senate Districts

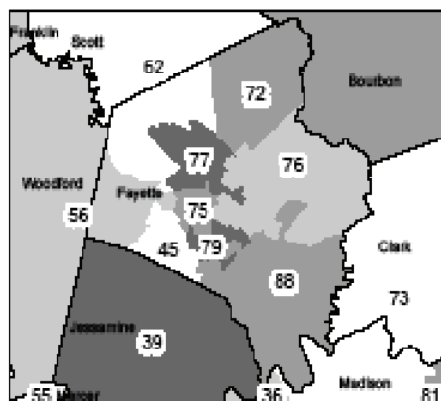
Senate Plan (SBD01A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.

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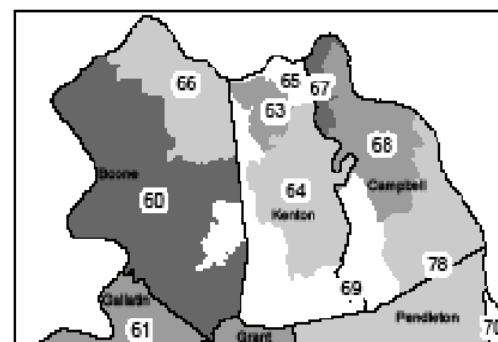
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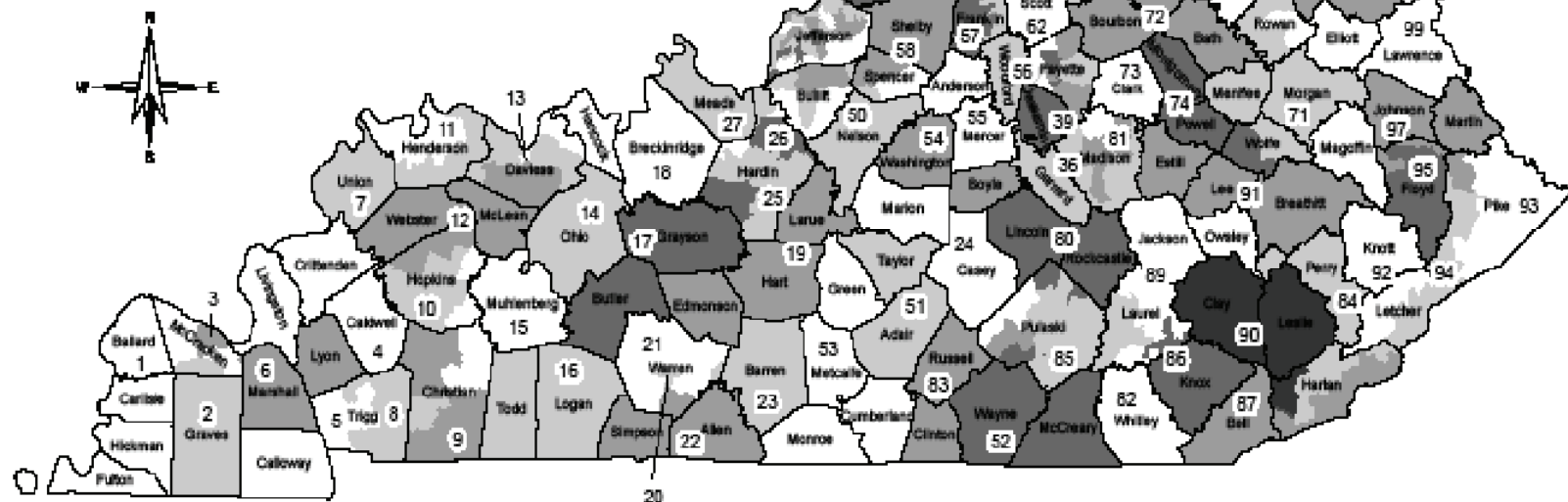
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House Plan (HB001A.11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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