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Lawmakers updated on the state of rural Kentucky

by Rebecca Hanchett
LRC Public Information

Rural Kentucky and Kentucky as a whole face challenges demographically, according to testimony given by Kentucky Education and Workforce Development Cabinet official Ron Crouch before the legislative Subcommittee on Rural Issues on Nov. 14.

Crouch said the state's population—like the rest of the nation's—is aging as the large Baby Boomer population ages. An aging population will cost more in terms of Medicare, Social Security, and will mean an aging workforce, he explained.

Still, there is good news, Crouch said, like the fact that most population growth in the U.S. is happening in the Southeast, including Kentucky. Eighty nine percent of domestic growth between 2000 and 2009 occurred in the Southeast, he said. More good news can be found in the fact that Kentucky has a strong interstate system and ample water supply.

"Water could be the new oil," Crouch explained.

He expressed concern about some areas of Kentucky's economy, specifically manufacturing, adding that he favors upgrading skills and reviving

Subcommittee on Rural Issues Co-Chair Rep. MIke Denham, D-Maysville, fields questions during the Nov. 14 meeting.

vocational-technical (vo-tech) programs among younger students, including those who live or are moving into rural areas.

"We are one of the very few states where some of our rural counties are gaining population," he

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Committee hears of high rates of lung cancer in state

by Rebecca Hanchett
LRC Public Information

High levels of heavy metals like arsenic and chromium in the ground could partially be to blame for high rates of lung cancer in parts of Eastern Kentucky, according to testimony before a state legislative panel on Nov. 7.

"Lung cancer incidence in Appalachia is higher than expected from smoking alone. What we suspect is some of the (incidence) might be due to environmental carcinogens, such as arsenic and chromium…." University of Kentucky Markey Cancer Center Director Dr. Mark Evers told the Tobacco Settlement Agreement Fund Oversight Committee.

Evers said researchers at UK and the Kentucky Lung Cancer Research (KLCR) Program are collecting biological and environmental samples to study how factors, like the heavy metals, contribute to cancer.

Besides smoking and a possible environmental link, Evers said genetics could be a factor for high rates of cancer in the region, particularly colorectal cancer. He said there is more data available on a genetic link to colorectal cancer than lung cancer.

"I think the genetics has been a little better worked out (on colorectal cancer) than, say, lung

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Insurance market report aired before lawmakers

by Amy Rose Karr
LRC Public Information

The insurance market in Kentucky is healthy and growing, Department of Insurance Commissioner Sharon Clark told members of the Interim Joint Committee on Banking and Insurance on Oct. 23 during a report on current insurance issues in the state.

According to the report, nearly 1,500 insurance companies are certified to do business in the state, including 34 new companies that began operating in Kentucky in the last two years.

While Kentucky pays a lower total premium than many other states, private insurance is still a $16.3 billion dollar industry in the Commonwealth, Clark said.

Regarding worker's compensation, Clark told lawmakers that rates have decreased for seven consecutive years, by more than 40 percent overall. She attributes the decrease to a variety of factors including awareness, loss prevention, claims management and education.

Committee co-chair Rep. Jeff Greer, D-Brandenburg, said improvements in loss prevention were notable. "I think everybody is doing a better job in loss prevention. … It is obvious that it is working," he said.

Lawmakers were also briefed about some of the department's work this year, including the largest disaster response effort in the history of the Department of Insurance following storms in early March.

Damage occurred in all 120 Kentucky counties and cost a total of $1.2 billion, Clark said. Agency employees traveled across the state to determine whether or not insurance companies responded appropriately to the catastrophe.

While consumer protection complaints have remained steady, the Department of Insurance is experiencing an increase in insurance fraud investigations, Clark said.

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cancer in terms of familial incidence," said Evers. "You've got genetic (factors); you've got environmental factors… Some of the environmental factors we're looking at are the arsenic and chromium."

The 5th Congressional District has a lung cancer incidence rate of 83 per 100,000 people, said Evers. It is the location of the Marty Driesler Cancer Project, which has worked alongside UK, the KLCR program, and community practitioners since 2004 to provide early screening for individuals at high risk for lung, esophageal and liver cancer.

"Any way that we can detect these diseases earlier, I think that's that much ahead of the game we're going to be," said committee co-chair Sen. Paul Hornback, R-Shelbyville.

The 2000 Kentucky General Assembly created the KLCR program to be a collaborative effort between UK's Markey Cancer Center and the University of Louisville Brown Cancer Center aimed at improving lung cancer survival rates in the Commonwealth. The program is funded in part with 20 percent of the state's tobacco settlement dollars.

Evers and Dr. Donald Miller, the director of the Brown Cancer Center, both told the committee that their respective programs have approximately $30 million on hand for basic cancer research. Miller said there are 26 separate project groups at Brown Cancer Center working on lung cancer research; in the year 2000, there was none at the University of Louisville, he said.

"I don't think we had any idea how successful the program would be," Miller said of KLCR.

Committee co-chair Rep. Wilson Stone, D-Scottsville, asked if there are certain studies that show a corresponding decrease between smoking rates and the incidence of lung cancer in a population. Miller said the age-adjusted percentage of death from all cancers—including lung cancer—has declined at a rate of about a percent a year since 1990. That drop could correspond to a decrease in smoking, he explained.

"The decrease in lung cancer has largely driven that," Miller said. "There are many studies now that show that in populations where smoking prevalence decreases, there is a corresponding decrease in lung cancer incidence and lung cancer deaths."

When California substantially hiked its cigarette tax many years ago, Miller said, smoking rates there fell. "Now, the lung cancer incidence is coming down correspondingly," he told the committee.

The committee also received a report from the Governor's Office of Agricultural Policy on funding decisions made by the state Agricultural Development Board in October.

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Lawmakers hear search and rescue improvements ideas

by Amy Rose Karr
LRC Public Information

Rep. Tim Moore, R-Elizabethtown, speaks with Sen. Mike Wilson, R-Bowling Green, at the Nov. 8 meeting.

Efforts are underway to improve statewide search and rescue resources, officials told members of the Interim Joint Committee on Veterans, Military Affairs and Public Protection in a Nov. 8 meeting.

Every community in the state has the ability to respond to disaster, but only response agencies in Lexington and Louisville are equipped to provide heavy search and rescue efforts needed during large-scale disasters, Lexington Battalion Chief Gregg Bayer said.

This means much of the state is two to three hours away from some of the resources necessary to respond to tornadoes, flooding or other disasters, he said.

The Fire and Rescue Departments in Lexington and Louisville have partnered with the Office of Homeland Security and other state agencies to improve statewide resources and response time. Their goal is to serve any area of the state within an hour, he said.

"Response time is directly related to mortality and morbidity," Bayer said.

To decrease response time, the group hopes to add four additional heavy search and rescue teams in higher-population areas across the state, he said.

All of the teams would complete nearly three hundred hours of additional training in areas like rope and water rescue, structural collapse and hazardous materials, and have access to specialized equipment for technical rescue, Bayer said.

According to Doug Recktenwald, Assistant Chief of the Louisville Fire and Rescue Department, the additional teams would give the state a high level of response capability and put Kentucky on par with surrounding states.

"We [have to] rely on resources outside our state to take care of large-scale incidents. We're trying to get that ability within our state," he said.

Recktenwald said that in order to achieve a statewide rescue team, the group would need a dedicated funding stream. Currently, the group has only received limited grant funding, he said.

According to the plan presented to lawmakers, a statewide rescue resource could be in place by 2014.

Rural issues, from page 1

said. Other states with rural population gains in the region, he said, are North Carolina, Virginia, and Tennessee.

Counties who band together to recruit new jobs fare better than those that try a stand-alone approach, an economic development expert told the subcommittee. "A single county is no longer competitive," University of Kentucky Community and Economic Development Initiative Director Dr. Alison Davis testified.

A regional approach simply outperforms the single-county approach, she said assuredly, pointing to an interstate economic development initiative at work in Western Kentucky as proof. Several Kentucky counties in that region are working across state lines with Tennessee to recruit jobs that benefit counties in both states.

"They all sit around the table, and they all recognize the benefit that if a plant locates across the state line in Tennessee, it will have a tremendous impact on all the Kentucky counties and Tennessee counties," Davis said. "They recognize that…four counties here competing against one county next door—they're going to win."

> Substance abuse is what Davis called an "insurmountable" reason why, she said, rural Kentucky is lagging behind economically.

Regional economic development has been difficult to achieve in some areas of Kentucky historically, subcommittee Co-Chair Rep. Mike Denham explained. However, regions that have been able to come together have met with tremendous success.

"The challenge for rural Kentucky is to be able to compete on a regional basis," he said.

Denham asked Davis if prescription drug reform in House Bill 1, passed by the 2012 General Assembly, is showing any sign of positively impacting the rural labor force by helping to alleviate substance abuse. It's too early to tell, she said. However, she added that there are some signs of progress, even in some drug-plagued areas of Eastern Kentucky.

Substance abuse is what Davis called an "insurmountable" reason why, she said, rural Kentucky is lagging behind economically.

Other problems facing rural counties are unskilled workers, incentives not to work, and lack of a livable wage in some counties, Davis explained.

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The Subcommittee on Rural Issues meets during the interim period between legislative sessions. Its mission is to review the effectiveness of state and federal rural development programs and consider policies related to rural infrastructure, health care, education, agriculture and transportation.

Pros, cons of nuclear energy reviewed by legislative Special Subcommittee on Energy

by Rebecca Hanchett
LRC Public Information

Nuclear power will be "vital" to affordable electricity generation in states served by the Tennessee Valley Authority in the near future, a nuclear operations official with the TVA explained to state officials on Nov. 16.

TVA Nuclear Operations Support vice president Mike Lorek told the Kentucky Special Subcommittee on Energy that the agency expects to spend around $10 per megawatt hour to "dispatch"—or produce— nuclear power by 2019-2020. Coal is expected to be the next most economic generation source at $25 to $40 per megawatt hour, he said, with combined cycle natural gas and conventional gas turbines at the higher end of the cost spectrum at $40 to $50 and $60 to $140 per megawatt hour, respectively.

"You can see that in 2020, the dispatch costs of nuclear are way below any other source of generation, and that's one reason we believe it's going to be a vital part of our energy mix going forward," said Lorek.

The TVA is a company owned by the U.S. government that provides electricity for approximately nine million people in seven states in the southeastern U.S., including portions of Kentucky. Its nuclear plants add more than 6,600 megawatts of electricity to the nation's power grid.

On average nationally, nuclear was the second cheapest power produced in 2010 (behind hydroelectric) at less than two cents per kilowatt hour, followed by coal at three cents per kilowatt hour and natural gas at nearly five cents per kilowatt hour, Lorek said.

Although many people remain concerned about nuclear plant safety because of incidents like the Three Mile Island accident in Pennsylvania in 1979, the 1986 Chernobyl disaster and the 2011 Fukushima disaster in Japan, Lorek said safety is a priority for the nuclear power industry. "We have one of the best industrial safety records of any industry in the United States," Lorek said, adding that plant evaluations and training through accredited programs keep industry standards high.

Some lawmakers questioned why Kentucky—a coal state which does not allow nuclear power generation within its borders currently—would want to change its policy on nuclear. Rep. Tom Riner, D-Louisville, asked Lorek pointedly, "Why should a coal state want nuclear power plants to compete with Kentucky coal and reduce the current energy mix…?"

Rep. Brent Yonts, D-Greenville, questions TVA officials about a facility planned for Alabama during the Nov. 16 meeting of the Special Subcommittee on Energy in Frankfort.

Riner also expressed concerns about the industry's ability to deal with air attacks from U.S. enemies, citing an earlier comment by Lorek "we currently don't have a strategy in place for trying to prevent that from happening." That was Lorek's response to an earlier question by subcommittee co-chair Sen. Brandon Smith, R-Hazard. Lorek said a nuclear plant is a difficult target to hit and, based on a study by the NRC (Nuclear Regulatory Commission), nuclear plants are designed to withstand the impact of being struck by an airplane.

He added that his industry has the emergency response capability to mitigate any impact, if something like that were to happen.

"I'm a pilot myself, and it looks

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2013 REGULAR SESSION CALENDAR

2013 REGULAR SESSION CALENDAR
(approved by LRC 9/5/12; clerical error corrected 9/5/12)

JANUARY – PART I

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

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

FEBRUARY – PART II

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

( ) Denotes Legislative Day

MARCH

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

( ) Denotes Legislative Day

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INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 5th Meeting of the 2012 Interim

October 10, 2012

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, October 10, 2012, at 1:00 PM, in Room 171 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, Dorsey Ridley (via video conference), Damon Thayer, and Robin L. Webb; Representatives Royce W. Adams, Johnny Bell, John “Bam” Carney, Mike Cherry, Will Coursey, Mike Denham, C.B. Embry Jr., Jim Glenn, Sara Beth Gregory, Richard Henderson, Kim King, Michael Meredith, Terry Mills, Brad Montell, David Osborne, Ryan Quarles, Tom Riner, Bart Rowland, Steven Rudy, Wilson Stone, and Tommy Turner.

Guests: Commissioner James R. Comer, Kentucky Department of Agriculture; Larry Cox, Executive Director, Office for Consumer and Environmental Protection, Kentucky Department of Agriculture; Steve Kelly, Executive Director, Kentucky Department of Agriculture; Scott R. Smith, Smith Management Group; Laura Knoth, Executive Director, Kentucky Corn Growers Association, and Benjy Kinman, Deputy Commissioner, Kentucky Department of Fish and Wildlife.

LRC Staff: Tanya Monsanto, Lowell Atchley, Kelly Ludwig, and Susan Spoonamore, Committee Assistant.

The September 14, 2012 minutes were approved without objection by voice vote upon motion by Representative Wilson Stone and second by Representative Royce Adams.

Report from Subcommittee on Rural Issues and Subcommittee on Horse Farming

Senator Thayer said that the Subcommittee on Rural Issues heard from representatives from the Kentucky Horse Racing Commission, who discussed pari-mutuel wagering, including the importance of regulatory pari-mutuel oversight. They also discussed the health and safety of horses and the programs developed to enhance those initiatives. In addition, the subcommittee was updated on the Standard bred Incentive Fund, the Kentucky Sire Stakes, and the Non-Race Incentive Fund.

The report of the Subcommittee on Horse Farming was approved without objection by voice upon motion by Senator Thayer and second by Representative Osborne.

Senator McGaha stated that the Subcommittee on Rural Issues discussed three items: (1) broadband service to rural Kentucky; (2) the livestock risk protection program; and (3) crop insurance programs. He said that there were problems rolling out broadband service, especially in the rural areas. Kentucky needed affordable broadband, increased adoption, and awareness. Crop insurance programs could be a valuable tool in protecting against unforeseen events, but sometimes insurance contract decisions were complicated since crop insurance must be purchased early in the year.

The report from the Subcommittee on Rural Issues was approved without objection by voice vote upon motion by Senator McGaha and second by Representative Denham.

Fuel Lab

Commissioner James R. Comer, Kentucky Department of Agriculture explained that, during the transition phase of taking office, he requested an audit of the fuel and pesticides testing lab. The audit found significant problems with the performance of the fuel lab. The idea behind the state-operated fuel and pesticides testing lab, which was presented to the General Assembly, was that it would be a great investment for the Commonwealth. The audit found that the fuel lab was losing approximately $900,000 per year and there was no business development plan to get contracts to test more fuel. There was a huge backlog of testing, and there was no way that the fuel lab could have handled additional business from surrounding states. The department downsized the number of staff and made changes to management. Operational expenses were cut, and now the department is on track to save the Commonwealth approximately $400,000 this fiscal year. The department also appointed a fuel lab task force to review all the information on the lab and to make recommendations.

Mr. Larry Cox, Executive Director, Office for Consumer and Environmental Protection, Kentucky Department of Agriculture, stated that since 1994 the department has had the responsibility to test for volume and quality of motor fuel. In the first 14 years of testing, the department collected random samples using Weights and Measures inspectors. The samples were sent to a Tennessee laboratory that tested each sample for $38.

In 2007, construction began for a new facility to house the fuel lab equipment. At the conclusion of the construction, the department had an annual rent of $200,000 for a purpose built building and had purchased $3,100,000 in state of the art testing equipment. Testing began in 2008, but it quickly became apparent that the laboratory could not perform the volume of testing that had been the concept behind the purchase of the new testing equipment and building. From early 2012 and previous years, samples were unprocessed in an underutilized building, equipment, and staff. Mr. Cox said that the department has stopped pulling random samples and has moved to sampling only on a complaint driven basis. The lab concentrated on processing the large sample backlog, which has now been eliminated.

Mr. Cox said that the current issues facing the department are the $200,000 annual rent on the laboratory building; $3.1 million in investment in underutilized inventory equipment; underutilized staff of four; and a cost of testing that exceeds the income derived from the $50 annual fee imposed on fuel outlets. The department, through recommendations of the fuel lab task force, is attempting to resolve all issues surrounding the fuel lab. The department is consulting with the University of Kentucky College of Agriculture and the Center for Applied Energy Research (CAER) about establishing a partnership in which the University would perform all fuel testing and provide results to the department for administrative action. The department would continue its statutory obligations for the regulation of fuel quality. The department’s Weights and Measures staff would continue drawing the samples as complaints come in.

In response to Representative McKee, Mr. Cox stated that if the department started receiving numerous complaints, then KDA would go back to doing broader-based sampling. In a typical week, the department may receive one or two complaints.

In response to Senator Pendleton, Mr. Cox said that the department does not have the authority to go any further than the retailer to investigate bad fuel samples.

In response to Representative Rudy, Mr. Cox said that there is no timeline for partnering with the University of Kentucky (UK) for fuel testing. The department is in the beginning stages of conversation with UK but would like to move the negotiation process along as quickly as possible.

In response to Representative Stone, Mr. Steve Kelly, Executive Director, Office for Strategic Planning and Administration, said that the biggest expenses for the department’s fuel lab are rent, utilities, and personnel.

In response to Representative Adams, Mr. Kelly said that outside testing has only amounted to $3,025. It has not been the revenue generator that was previously thought. Mr. Cox said that the lab does have the capacity to test diesel.

In response to Representative Quarles, Mr. Cox stated that the department has tested every fuel outlet for volumnmetric delivery.

In response to Senator Thayer, Commissioner Comer stated that the previous Commissioner of Agriculture presented to the General Assembly a unique concept to generate revenue and cut costs that was embraced by General Assembly. However, there was never a business plan. Revenue projections were based on the testing of 40 or 50 samples a day, which cannot be done. The fuel lab at most could process 10 samples a day. The Commissioner stated that the department's goal is to be transparent and accountable.

In response to Representative Gregory, Mr. Kelly stated that legislative approval of a contract between the department and UK would depend on the dollar amount of the contract.

In response to Representative Kim King, Mr. Kelly said that one outside group made known its opinion that fuel must continue to be tested.

In response to Senator Hornback, Mr. Kelly stated that it was at the suggestion of the Finance Cabinet to reach an agreement with the University of Kentucky rather than do a Request for Proposal (RFP) for privatization.

In response to Senator Givens, Mr. Kelly said that the $50 fee was for testing both the volume and quality of fuel. It does not matter if a company has one or 60 pumps; the fee is still $50 per station.

Total Maximum Daily Load (TMDL) and Floyd's Fork

Laura Knoth, Executive Director, Kentucky Corn Growers Association, explained that Floyd's Fork is a watershed located outside Louisville. The Kentucky Division of Water (KDW) asked the Environmental Protection Agency (EPA) for its assistance in developing the first nutrient TMDL in Kentucky. The definition of TMDL is a calculation of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards. Pollutant sources are characterized as either point sources or nonpoint sources. The information collected showed that agriculture related nutrients (nonpoint source) contributed 77 percent to the problem of water quality in Floyd's Fork watershed. The data showed a serious flaw in the amount of fertilizer being applied to the farms located within the watershed. Testing did not take into account that fertilizer is shipped on barges to Louisville. The model should be done right, and more information is needed as to the impact on agricultural communities.

Mr. Scott R. Smith, Senior Consultant, Smith Management Group, testified about performing a TMDL. The Division of Water (DOW) tests five different watersheds every five years. The results are evaluated and compared to existing water quality standards. If a stream does not meet the standards, it is listed as impaired. Mr. Smith said that it should be a state's responsibility to set water quality standards and to develop programs to make sure that they are implemented appropriately. If a stream is listed as impaired, then that could have a negative impact on economic development in a community. The issue of TMDLs is a very important issue to agriculture and should be monitored closely.

In response to Representative McKee, Mr. Scott said the list containing the proposed TMDLs is for the whole state.

In response to Senator Givens, Mr. Scott explained the process of determining TMDLs. It starts with the Kentucky Division of Water asking the EPA for assistance, which hires a consultant. The consultant designs the model that could become a standard for the state.

In response to Representative Stone, Mr. Scott and Ms. Knoth said it was important that the agriculture community be aware of how the test results could negatively impact communities.

In response to Representative Carney's question, Mr. Scott and Ms. Knoth said that the Kentucky Division of Water receives state funding.

In response to Representative McKee's question, Ms. Knoth, Executive Director of the Kentucky Corn Growers Association, stated the corn yield for 2012 will average between 65 to 70 bushels an acre. Typically, the corn yield is about 140 bushels.

Asian Carp

Benjy Kinman, Deputy Commissioner, Kentucky Department of Fish and Wildlife, stated that Kentucky provides excellent fishing and hunting opportunities. For the department to maintain quality fishing, there is an effort to control Asian Carp. The primary species of concern are big head and silver carp. Asian Carp can be found in Kentucky and Barkley Lakes, Greenup Lock and Dam, and Taylorsville Lake. Carp are detrimental to native sport fish and dangerous to boaters, skiers, and the fishing industry. The fishing industry in Kentucky has an economic value of $1.3 billion. To get the word out, the department is developing regulations; using education, media outlets, and public meetings; and working with state legislators and Congress. Kentucky needs a facility to hold Asian Carp so large numbers captured can be marketed. The only way to control the carp population is to promote commercial fishing. Mr. Kinman stressed that it was imperative to control and prevent Asian Carp from entering other waters.

The meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 5th Meeting of the 2012 Interim

October 25, 2012

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 25, 2012, at 1:00 PM, 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; 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, R.J. Palmer II, Brandon Smith, Jack Westwood, and Mike Wilson; Representatives Royce W. Adams, Dwight D. Butler, John "Bam" Carney, Ron Crimm, Mike Denham, Bob M. DeWeese, Kelly Flood, Danny Ford, Derrick Graham, Jimmie Lee, Reginald Meeks, Lonnie Napier, Sannie Overly, Marie Rader, Steven Rudy, Sal Santoro, Arnold Simpson, Tommy Turner, Jim Wayne, Alecia Webb-Edgington, and Susan Westrom.

Guests: Ms. Carrie Banahan, Executive Director, Kentucky Health Benefit Exchange; and Mr. Larry Kissner, Commissioner, Department for Medicaid Services.

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

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

Kentucky Health Benefit Exchange

Ms. Carrie Banahan, Executive Director, Kentucky Health Benefit Exchange provided a history and general overview of the Exchange. A health benefit exchange is an organized marketplace for individuals and employees of small businesses to shop for health insurance offered by insurers based on price and quality. Individuals will also be able to apply for Medicaid coverage through the Exchange. The Exchange was created by Executive Order 2012-587 and is organized under the Cabinet for Health and Family Services. The Exchange consists of four divisions and a separate Advisory Board which has six subcommittees. The Exchange will hold its first open enrollment from October 1, 2013 through March 31, 2014, and will be fully operational on January 1, 2014. Kentucky will be able to guide the Exchange based on the state's unique regional and economic needs.

Kentucky has decided to pursue a state-based exchange to prevent federal government intervention and to address concerns with dual regulation of the health insurance market. This will allow Kentucky to determine the benefits that will be provided and give the state flexibility in determining Medicaid eligibility.

Ms. Banahan gave a basic overview of the benefits required for the program, including the minimum package of services allowed, the navigator program, and the Small Business Health Option Program (SHOP). She also discussed the eligibility standards for employers wanting to purchase health insurance coverage through the SHOP program.

Ms. Banahan discussed who will qualify for insurance premium assistance and tax credits under the Exchange. Individuals with a household income between 133 percent and up to 400 percent of the federal poverty level will qualify for premium assistance. Small businesses may qualify for tax credits if the employer has fewer than 25 full-time employees, the average annual wage of employees in the group is less than $50,000 annually, and the employer pays at least 50 percent of the premium for each employee. She provided examples of premium assistance and IRS tax credit calculations.

Ms. Banahan provided an implementation timeline update, and discussed Exchange grant funds received by the state and their utilization. She discussed the application process for the Exchange, and provided information concerning the contract with Deloitte to develop the new Medicaid eligibility and Exchange application computer system.

In response to a question from Senator Bowen, Ms. Banahan said there should be no unintended consequences of developing the Exchange. She stated that the purpose of the Exchange is to provide access to affordable healthcare to underinsured and uninsured Kentuckians, and that the Exchange will be self-sustaining with federal funds.

In response to a question from Representative Rand, Ms. Banahan stated that those individuals utilizing Kentucky Access will transition into the Exchange. With the Exchange premium subsidies, individuals who previously could not afford health insurance will be able to afford coverage, causing a decline in indigent care.

In response to a question from Representative Wayne, Ms. Banahan replied under the Affordable Care Act, before one can determine eligibility for premium assistance, it must be determined if the applicant is eligible for Medicaid. The two systems will be combined to streamline the process. There are 640,000 uninsured people in the state, and indigent care costs should be reduced by utilization of the Exchange.

In response to a question from Senator Higdon, Ms. Banahan explained that the credit is not a state income tax credit, but rather a percentage rebate of insurance premiums paid by an individual.

In response to a question from Senator Wilson, Ms. Banahan replied that it is estimated that approximately 300,000 would utilize Kentucky's Exchange.

In response to a question from Senator Westwood, Ms. Banahan stated that all funds received from the federal government are grants and will not need to be repaid by the state. She discussed how much of the grant funds have been spent, and explained that the funds are available to the state on an as needed draw down basis.

In response to a question from Senator Leeper, Ms. Banahan stated she would provide the chairman information regarding the emergency appropriation increase reported for the Health Benefit Exchange.

Managed Care Organizations

Mr. Larry Kissner, Commissioner, Department for Medicaid Services discussed the Medicaid Managed Care Organizations (MCO) in Kentucky. He provided historical data concerning rates and provided estimates for future rates with and without the utilization of the MCOs. The Medicaid MCO eligible population is expected to reach 577,490 by FY 14. The projected Medicaid expenditure over the next 3 years under managed care is $6.48 billion, as compared to $7.75 billion without managed care. The current enacted budget was based on achieving these savings. The department is on track, as the cost per individual eligible and number of eligibles is lower than projected. Managed care represents only half of the total $5.79 billion Medicaid budget, with the remainder being fee for services. Current monthly expenditures are below the enacted budgeted amounts for the first quarter of FY 13. Mr. Kissner provided details of the expenditure breakdown.

Mr. Kissner also discussed other Department of Medicaid Services priorities, which include MCO contract compliance, and network adequacy reviews. He discussed the Health Benefit Exchange and its effect on eligibility updates and changes. The single database will make managing this information easier in the future.

Mr. Kissner discussed the contract with IPRO, which won the contract to evaluate the performance of the MCOs. IPRO will monitor the overall quality and financial performance of the Medicaid and CHIP programs, maintain a database and system to enable all functions for quality review, conduct data analysis, and report analytical findings to the department. He also discussed the contract with Rector & Associates to perform market conduct and financial examinations of the MCOs.

Mr. Kissner discussed the effect that MCOs have had on various sectors of Medicaid cost. Prescription costs and emergency room visits have declined since the implementation of the MCOs.

In response to a question from Senator Smith, Mr. Kissner explained how the MCO's reimbursement rates were calculated in all 8 regions of the state. He stated that the department does not scrutinize rate bids submitted by MCOs and discussed the bid review process.

In response to a question from Representative Wayne, Mr. Kissner stated that Kentucky Spirit would be withdrawing from its MCO services to the state in July of 2013.

In response to a question from Representative DeWeese, Mr. Kissner said that the department believes introducing other MCOs in addition to Passport will be revenue neutral for the Region 3 Louisville area.

In response to a question from Senator Wilson, Mr. Kissner said that the number of Medicaid eligibles has been increasing by less than one percent since implementation of the MCOs.

In response to questions from Senator Leeper, Mr. Kissner stated that the department has not calculated the potential cost implications to the department from the Kentucky Spirit lawsuit. He discussed the differences between the benefits offered through Medicaid as compared with the essential health benefits offered by all Health Benefit Exchange insurers.

Being no further business, the meeting was adjourned at 3:15 p.m. All meeting materials and a cassette recording of the meeting are available in the Legislative Research Commission library.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education

Minutes of the 2nd Meeting of the 2012 Interim

September 26, 2012

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 26, 2012, at 2:00 PM, in the Digitorium at the Northern Kentucky University campus. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Arnold Simpson, Co-Chair; Senator Gerald A. Neal; Representatives Kelly Flood, Melvin B. Henley, Reginald Meeks, Jody Richards, Carl Rollins II, and Rita Smart.

Guests: President Geoff Mearns, President, Northern Kentucky University (NKU), Janet Harrah, Center for Economic Analysis and Development (CEAD), Dr. Kristi Haik, Associate Professor of Biology and Interim Director of CINSAM, Dr. Edward Hughes, President, Gateway Community and Technical College, Dr. Kevin Kirby, Dean of the College for Informatics, Tim Ferguson, Director of Center for Applied Informatics, Chris Stern, UpTech Representative.

LRC Staff: Kelly Dudley and Amie Elam.

Future Talent Need & STEM Pipeline for 2020

Ms. Harrah testified about regional indicators and the 2020 Jobs Outlook. The data on occupational projections through 2020 for the Northern Kentucky/Greater Cincinnati area shows the majority of high-paying job openings will require a post-secondary degree and the highest paying occupations will be in healthcare and computer science.

Dr. Haik testified about the Center for Integrative Natural Science and Mathematics (CINSAM), which is the university's Program of Distinction in the Commonwealth. CINSAM's vision is to facilitate NKU becoming a national leader in Science, Technology, Engineering and Mathematics (STEM) education and scholarship. Dr. Haik also discussed CINSAM's goals related to the university's strategic plan.

Dr. Hughes discussed the partnership that Gateway Community and Technical College shares with NKU and efficiencies in transferability of Gateway's students to NKU. He also discussed the benefits of the Center for Advanced Manufacturing located at the Boone Campus. The 2006 General Assembly appropriated $28.5 million in the 2006-2008 biennium to fund construction of the Center which began in 2007. He emphasized the importance of the development of the new Urban Campus in Covington.

Representative Flood stated that she was inspired by the bold vision that Northern Kentucky University has for the future. As the new standards are implemented for teachers of STEM areas, it is important to remember to give time for the standards to be integrated into the life of the teacher and to provide them proper training.

In response to a question by Representative Meeks, Dr. Haik said that a student wishing to join the SOAR program needs a minimum math ACT score of 23 and needs to be a STEM major. He said that the SOAR program accepts sophomores, juniors, and transfer students.

The Informatics/Consumer Health Vision & Opportunity

Dr. Kirby and Mr. Ferguson testified about the purpose of the College for Informatics and its main areas, including the Center for Applied Informatics. Mr. Stern talked about how his company, InstrumentLife has worked closely with the college's Mobile/Web Academy through Uptech to improve its internet-based business. Uptech is a startup business accelerator program under which the college's students perform development work for companies.

President Mearns discussed the significance of a Health Innovations Center and how would build on the existing strengths of the university, address space issues on campus, and benefit the community and state. The university requested $92.5 million for this capital project in its 2012-2014 biennial budget submission and ranked the project as its top priority.

Student Success–21st Century Retention, Graduation and Career Planning Center

President Mearns discussed the university's decision to spend $6 million of reallocated funds to renovate the old University Center to become a collaborative space where students can get integrated support for both academic advising and career planning. This new Student Success Center will co-locate all necessary business and support services so that students have a true one-stop-shop.

Representative Graham stated that he was impressed by the collaboration between Northern Kentucky University and Gateway Community and Technical College. He thanked President Mearns for his hard work at the university.

Chairman Simpson stated that the College of Informatics is on the cutting edge of success with its facilities. He said that funding it is important to put students first and to ensure student success in view of the rising cost of education.

There being no further business before the Committee, the meeting was adjourned at 3:49 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education

Minutes of the 3rd Meeting of the 2012 Interim

October 25, 2012

Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 25, 2012, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Arnold Simpson, Co-Chair; Representatives Julie Raque Adams, Jim DeCesare, Melvin B. Henley, Carl Rollins II.

Guests: Honorable Adam Edelen, Auditor of Public Accounts; Mr. Hiren Desai, Associate Commissioner, Kentucky Department of Education; Ms. Kay Kennedy, Director, Division of District Support, Kentucky Department of Education; Col John W. Smith (R), Director, Kentucky Youth ChalleNGe.

LRC Staff: Kelly Dudley, Tom Willis, Perry Papka, and Amie Elam.

Financial Audits of Local School Districts

The Honorable Adam Edelen, Auditor of Public Accounts, gave a presentation on the process of financial audits in local school districts. He focused on the importance of using tax dollars wisely and ethically to provide students in the Commonwealth with a world class education.

In response to a question from Chairman Carpenter, Mr. Edelen said that the Auditor's Office has a strong focus on issues that have a broad impact. He made clear that the office works hard to air out complaints and only investigate the most egregious examples of mismanagement and corruption based on legitimate complaints.

In response to a question from Representative Carney, Mr. Edelen said there is no built-in whistleblower protection. Mr. Edelen stated that he would review the issue with his general counsel and respond to the committee in writing when he has more information.

In response to a question from Representative DeCesare, Mr. Edelen stated the Auditor's Office does not have the force of law behind its recommendations. The office has the ability to make referrals to the IRS and law enforcement agencies based on its findings.

In response to a question from Representative Adams, Mr. Edelen said that the Dayton Independent School District in northern Kentucky is under investigation. The most common theme in his investigations stems from superintendents not having the appropriate level of oversight from their school boards. Mr. Edelen said he does not have adequate resources to drill down as much as his office would like, but he stated he will not be pleading for more funds.

In response to a question from Representative Graham, Mr. Edelen stated that new legislation is not needed regarding oversight of school boards. He said that more attention needs to be paid to how tax dollars are being spent.

In response to a question from Chairman Carpenter, Mr. Edelen said that near the end of 2013 a collection of observations will be produced by the Auditor's Office along with recommendations for training.

Representative Carney mentioned the importance of highlighting districts that are doing the right thing. Mr. Edelen added that there are more examples of commitment within school districts to do the right thing than examples of abuse.

In response to a question from Representative Simpson, Mr. Edelen said that there are eight educational co-ops. He said that most savings are used to fill holes from necessary budget cuts.

Financial Condition of Local School Districts

Hiren Desai and Kay Kennedy, Kentucky Department of Education (KDE), gave a presentation on the financial condition of local school districts. This included a discussion of FY 2011-2012 end of year fund balances, current tax rates, number of employees in the district, average daily attendance, as well as general comments related to districts with serious financial difficulties.

In response to a question from Representative DeCesare, Mr. Desai said that having new superintendents is a double edged sword. The new superintendents provide a fresh set of eyes with new ideas, yet they struggle with the complexity of managing districts. Mr. Desai added that new superintendents are often more concerned with the instructional aspects of the job, and seasoned superintendents often have a stronger business background.

In response to a question from a Representative Graham, Ms. Kennedy stated there are statutes governing how a merger occurs. KDE acts as a facilitator between districts using the existing statutes.

Chairman Carpenter said it is important to fine tune elective training to the issues that are affecting school districts.

In response to a question from Representative Adams, Ms. Kennedy said that professional staff data refers to certified staff including teachers, superintendents, and principals. Classified staff is non-certified personnel including clerks, secretaries, custodians, food service, and bus drivers. Ms. Kennedy indicated she would provide additional information to subcommittee members.

Status Report on the Appalachian ChalleNGe Academy

Colonel John W. Smith gave a status report on the Appalachian ChalleNGe Academy. The Appalachian ChallNGe Academy is a residential program working with dropouts and is in its first year of operation.

In response to a question from Representative Graham, Colonel Smith said ChalleNGe does not have the authority to issue diplomas. He added that the goal, regardless of where the diploma is issued, is to get the student off the dropout list.

There being no further business before the committee, the meeting was adjourned at 12:01 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education

Minutes of the 2nd Meeting of the 2012 Interim

September 26, 2012

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 26, 2012, at 2:00 PM, in . Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Derrick Graham, Co-Chair; Senator Gerald A. Neal; Representatives John "Bam" Carney, Will Coursey, Ted Edmonds, Dennis Horlander, Carl Rollins II, and John Will Stacy.

Guests: President Geoff Mearns, President, Northern Kentucky University (NKU), Janet Harrah, Center for Economic Analysis and Development (CEAD), Dr. Kristi Haik, Associate Professor of Biology and Interim Director of CINSAM, Dr. Edward Hughes, President, Gateway Community and Technical College, Dr. Kevin Kirby, Dean of the College for Informatics, Tim Ferguson, Director of Center for Applied Informatics, Chris Stern, UpTech Representative.

LRC Staff: Kelly Dudley and Amie Elam.

Future Talent Need & STEM Pipeline for 2020

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President Mearns discussed the significance of a Health Innovations Center and how would build on the existing strengths of the university, address space issues on campus, and benefit the community and state. The university requested $92.5 million for this capital project in its 2012-2014 biennial budget submission and ranked the project as its top priority.

Student Success–21st Century Retention, Graduation and Career Planning Center

President Mearns discussed the university's decision to spend $6 million of reallocated funds to renovate the old University Center to become a collaborative space where students can get integrated support for both academic advising and career planning. This new Student Success Center will co-locate all necessary business and support services so that students have a true one-stop-shop.

Representative Graham stated that he was impressed by the collaboration between Northern Kentucky University and Gateway Community and Technical College. He thanked President Mearns for his hard work at the university.

Chairman Simpson stated that the College of Informatics is on the cutting edge of success with its facilities. He said that funding it is important to put students first and to ensure student success in view of the rising cost of education.

There being no further business before the Committee, the meeting was adjourned at 3:49 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education

Minutes of the 3rd Meeting of the 2012 Interim

October 25, 2012

Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 25, 2012, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Derrick Graham, Co-Chair; Representatives John "Bam" Carney, Will Coursey, Ted Edmonds, Dennis Horlander, Carl Rollins II, and Steven Rudy.

Guests: Honorable Adam

Edelen, Auditor of Public Accounts; Mr. Hiren Desai, Associate Commissioner, Kentucky Department of Education; Ms. Kay Kennedy, Director, Division of District Support, Kentucky Department of Education; Col John W. Smith (R), Director, Kentucky Youth ChalleNGe.

LRC Staff: Tom Willis, Perry Papka, Kelly Dudley, and Amie Elam.

Financial Audits of Local School Districts

The Honorable Adam Edelen, Auditor of Public Accounts, gave a presentation on the process of financial audits in local school districts. He focused on the importance of using tax dollars wisely and ethically to provide students in the Commonwealth with a world class education.

In response to a question from Chairman Carpenter, Mr. Edelen said that the Auditor's Office has a strong focus on issues that have a broad impact. He made clear that the office works hard to air out complaints and only investigate the most egregious examples of mismanagement and corruption based on legitimate complaints.

In response to a question from Representative Carney, Mr. Edelen said there is no built-in whistleblower protection. Mr. Edelen stated that he would review the issue with his general counsel and respond to the committee in writing when he has more information.

In response to a question from Representative DeCesare, Mr. Edelen stated the Auditor's Office does not have the force of law behind its recommendations. The office has the ability to make referrals to the IRS and law enforcement agencies based on its findings.

In response to a question from Representative Adams, Mr. Edelen said that the Dayton Independent School District in northern Kentucky is under investigation. The most common theme in his investigations stems from superintendents not having the appropriate level of oversight from their school boards. Mr. Edelen said he does not have adequate resources to drill down as much as his office would like, but he stated he will not be pleading for more funds.

In response to a question from Representative Graham, Mr. Edelen stated that new legislation is not needed regarding oversight of school boards. He said that more attention needs to be paid to how tax dollars are being spent.

In response to a question from Chairman Carpenter, Mr. Edelen said that near the end of 2013 a collection of observations will be produced by the Auditor's Office along with recommendations for training.

Representative Carney mentioned the importance of highlighting districts that are doing the right thing. Mr. Edelen added that there are more examples of commitment within school districts to do the right thing than examples of abuse.

In response to a question from Representative Simpson, Mr. Edelen said that there are eight educational co-ops. He said that most savings are used to fill holes from necessary budget cuts.

Financial Condition of Local School Districts

Hiren Desai and Kay Kennedy, Kentucky Department of Education (KDE), gave a presentation on the financial condition of local school districts. This included a discussion of FY 2011-2012 end of year fund balances, current tax rates, number of employees in the district, average daily attendance, as well as general comments related to districts with serious financial difficulties.

In response to a question from Representative DeCesare, Mr. Desai said that having new superintendents is a double edged sword. The new superintendents provide a fresh set of eyes with new ideas, yet they struggle with the complexity of managing districts. Mr. Desai added that new superintendents are often more concerned with the instructional aspects of the job, and seasoned superintendents often have a stronger business background.

In response to a question from a Representative Graham, Ms. Kennedy stated there are statutes governing how a merger occurs. KDE acts as a facilitator between districts using the existing statutes.

Chairman Carpenter said it is important to fine tune elective training to the issues that are affecting school districts.

In response to a question from Representative Adams, Ms. Kennedy said that professional staff data refers to certified staff including teachers, superintendents, and principals. Classified staff is non-certified personnel including clerks, secretaries, custodians, food service, and bus drivers. Ms. Kennedy indicated she would provide additional information to subcommittee members.

Status Report on the Appalachian ChalleNGe Academy

Colonel John W. Smith gave a status report on the Appalachian ChalleNGe Academy. The Appalachian ChallNGe Academy is a residential program working with dropouts and is in its first year of operation.

In response to a question from Representative Graham, Colonel Smith said ChalleNGe does not have the authority to issue diplomas. He added that the goal, regardless of where the diploma is issued, is to get the student off the dropout list.

There being no further business before the committee, the meeting was adjourned at 12:01 PM.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2012 Interim

October 23, 2012

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 23, 2012, at 10:00 AM, in Room 149 of the Capitol Annex. 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 Jared Carpenter, Julian M. Carroll, Dennis Parrett, Jerry P. Rhoads, Dorsey Ridley, Dan "Malano" Seum, and Brandon Smith; Representatives Dwight D. Butler, Will Coursey, Ron Crimm, Robert R. Damron, Mike Denham, Ted Edmonds, Joseph M. Fischer, Danny Ford, Jim Gooch Jr., Sara Beth Gregory, Mike Harmon, Dennis Horlander, Dennis Keene, Adam Koenig, Michael Meredith, Brad Montell, David Osborne, Sannie Overly, Ryan Quarles, Arnold Simpson, Kevin Sinnette, and Wilson Stone.

Guests: Sharon Clark, Commissioner, Department of Insurance, D. J. Wasson, Department of Insurance, Dr. Edwin Duett and Dr. Burke Christensen, Eastern Kentucky University, and Dwight Lovan, Commissioner, Department of Worker's Claims.

LRC Staff: Rhonda Franklin, Sean Donaldson, and Jamie Griffin.

Representative Greer called the meeting to order and the minutes were approved.

State of the Insurance Industry in Kentucky

Sharon Clark, Commissioner of the Department of Insurance, stated that the department has no potential legislation for the 2013 session and reported on the current state of the insurance industry in Kentucky. The commissioner reported that:

Kentucky's insurance market is healthy, citing the number of licensed insurers in the state, the status of Kentucky's captive insurer market, and the addition of 13 companies in 2011 and 21 companies to the state's market;

The department's information technology has been enhanced with the eServices website, which allows electronic submission of insurer's rate and form filings, company admissions, and financial reporting. With electronic filings and the department's initiative to store all records electronically, the commissioner noted significant savings for the department;

The local government premium tax collected in 2011 resulted in approximately $242 million paid to local governments and $98 million was collected for the Kentucky Law Enforcement Foundation Program Fund in 2011, to provide training for local firefighters and law enforcement personnel;

Fraud investigations by the department increased from 2011 to 2012, mainly due to increased staged automobile accidents, prescription drug fraud, and private sector fraud, specifically roofing contractor issues after hail and wind damage in the state in the first half of 2012;

The Consumer Protection Division averaged 4,608 complaints per year with an annual recovery for insured's averaging $6.1 million per year; and,

Department staff has worked to comply with the applicable requirements of the Affordable Care Act and to ensure health insurance covers the cost for individuals required to undergo drug screening as a result of the 2012 "Pill Mill" bill and subsequent regulations.

Senator Tom Buford requested for information regarding the contract employees at the Department of Insurance and wanted the following information regarding each contract: hourly wage; how long have they been a contract employee; whether they travel to conferences and how related expenses are paid; whether they receive benefits; the number who receive over $100,000 annually; the number of days per week and hours per day that are worked; and whether the contracts are amended at any time.

Commissioner Clark stated that she would gather the information. Senator Buford requested it to be forwarded to committee staff for distribution to the members.

Risk Management and Insurance Program Studies at Eastern Kentucky University

Dr. Edwin Duett, Director of Insurance Studies, and Dr. Burke Christensen, Dean of the Eastern Kentucky University College of Business and Technology, testified about the status of the university's insurance program. They reported that EKU has the only insurance studies program at any college in Kentucky and that the number of students has increased significantly during the last four years. The program emphasizes risk management.

Senator Buford assumed the chair.

Workers' Compensation Issues

Dwight Lovan, Commissioner of the Department of Workers' Claims, testified that the state's workers' claims statutes have not been amended 1996. He addressed five areas that need to be amended to ensure a fair and equitable resolution of claims by injured Kentucky's workers:

Amend the requirement that benefits cease when injured workers qualify for Social Security since many workers continue to work after they qualify, and if injured they will not have a valid claim for benefits;

Amend the factors for determination of permanent partial disability as the current factors in the statutes are insufficient, with the use of the American Medical Association rating of most injuries resulting in 5 percent to 10 percent disability;

Amend the attorney fees for a claim, which were capped at $12,000 per claim in 1996, resulting in approximately 40 percent of all workers' compensation claimants representing themselves due to an inability to find an attorney, and physician fees for recordkeeping that were capped in 1994;

Address the use of multipliers created for permanent partial disability claims in 2000, which were nullified for all practical purposes by a subsequent Kentucky case; and

Address the growth of prescription drugs as the largest growth factor accounting for 65 percent of each workers' compensation dollar.

Senator Buford suggested that Commissioner Lovan and Senator Jerry Rhoads work on suggestions for legislation that would update and clarify worker's compensation issues and get back to the committee.

With no further business, the meeting adjourned.

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

Minutes of the 4th Meeting of the 2012 Interim

October 18, 2012

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, October 18, 2012, at 10:00 AM, at Midway College. Senator Alice Forgy Kerr, co-chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Leslie Combs, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Denise Harper Angel, Ernie Harris, Jerry P. Rhoads, Kathy W. Stein, Katie Stine, and Jack Westwood; Representatives Julie Raque Adams, Royce W. Adams, Linda Belcher, John "Bam" Carney, Larry Clark, Will Coursey, Jim DeCesare, Mike Denham, Ted Edmonds, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Wade Hurt, Dennis Keene, Thomas Kerr, Kim King, Adam Koenig, Tom McKee, Terry Mills, David Osborne, Ruth Ann Palumbo, John Short, Fitz Steele, Wilson Stone, Addia Wuchner, and Jill York.

Guests: Dr. Robert Vogel, President, Midway College; Tom Bozarth, Mayor, Midway, Kentucky; Jim Gray, Mayor, Lexington, Kentucky; and Margaret Handmaker, Director, Louisville Innovation Delivery Team.

LRC Staff: John Buckner, Louis DiBiase, and Dawn Johnson.

Minutes

A motion by Representative McKee and second by Representative Carney to approve the minutes of the September 20 meeting carried by voice vote.

Welcome to Midway College and Midway Kentucky

Dr. Robert L. Vogel, President, Midway College, and Mayor Tom Bozarth welcomed the committee and guests to the college campus and the city of Midway.

NCCI Loss Cost Filing for Workers' Compensation Approval

Commissioner Sharon P. Clark, Department of Insurance, presented an overview of the National Council on Compensation Insurance (NCCI) and its annual 2012 Loss Cost Filing, which was approved by the department and became effective October 1. NCCI is an advisory organization that serves as the oldest provider of workers' compensation and employee injury data and statistics in the nation. Medical claims continue to be a cost driver and represent 65 percent of workers' compensation claims.

Randy Pepper, Actuary, Department of Insurance, reviewed the Loss Cost Filing for the committee. For the seventh year, loss costs have continued to decrease resulting in a 42.2 percent decrease. In 2012, a decrease of 7.9 percent was reported for the 590 industrial classes used in Kentucky. These classes include manufacturing, office and clerical, contracting, and goods and services. For coal classes, underground mining costs decreased 8.9 percent and surface mining decreased 7.0 percent. Premiums have increased from $475.1 million (2010) to $507.1 million (2011), among the top five market share writers, Kentucky Employers' Mutual Insurance (KEMI), Liberty Mutual Group, AIG, Zurich Group, and Travelers Group.

The average loss cost nationwide is $1.34. The region (including Tennessee, Illinois, Indiana, and Virginia) is $1.56 based upon varying benefit levels for each state. Kentucky's average loss cost is $1.35, which ranks 18th among 38 states that have been reviewed by NCCI. Kentucky had the third largest decrease. The 2012 filing is based on the loss experience averages for policy years 2009 and 2010. The loss experience for 2010 will be included in the filing for 2013, so it is possible that Kentucky will experience an eighth year of decreases in loss costs.

In response to questions from Representative Clark, Mr. Pepper explained that the loss cost filing is advisory, and approximately 90 percent of carriers adopt the loss cost.

Cooperative Efforts and Initiatives Between Lexington and Louisville to Promote Economic Development

Lexington Mayor Jim Gray explained the Business Economic Advancement Movement (BEAM), an initiative formed by Louisville and Lexington to promote regional manufacturing and logistics. The initiative is supported by the Mayors' Project, which is a program created by Bloomberg Philanthropies to help mayors by using "Innovation Delivery Teams" to address ongoing challenges faced by cities. Following a meeting with the Brookings Institute, Louisville Mayor Greg Fischer approached Mayor Gray to discuss the institute's Metropolitan Business Plans that have been developed for other regions. Mayor Gray said while there has always been a healthy competition between the two cities, the program goal is simply about jobs— creating higher wages and higher value jobs for the future. The plan is based on market-driven analysis and planning. While studies conclude that record numbers of people are migrating to cities and productivity is growing, the plan will benefit surrounding regions as well.

The Brookings Institute's Metropolitan Business Plan focuses on core industries and strengthening through "lead initiatives" in terms of talent, investment, jobs, and training. The program has been successful in other cities, and includes renewed manufacturing in northeast Ohio, start-ups in the Minneapolis and St. Paul area, alternative energy initiatives in Puget Sound, Washington, and data driven decision-making across industries in central New York.

He noted that during the Mayors Summit, Bloomberg Philanthropies commended Lexington and Louisville for their collaborative efforts.

Mayor Gray said elements of the plan included the creation of a board and business community outreach. Chaired by Jim Host, the board consists of university leaders and business and manufacturing representatives. Through community outreach, it was determined that it is consistently difficult for manufactures to find qualified, skilled employees. Also, the perception of manufacturing jobs is problematic. Data collected suggested a focus on advanced manufacturing as a common industry cluster.

Margaret Handmaker, Director, Louisville Innovation Delivery Team, said the Bloomberg Foundation is interested in what is replicable in other cities. Ms. Handmaker discussed the importance of manufacturing. While job vacancies exist, the skill set employees need is not easily obtained. Manufacturing jobs have a 2:1 multiplier effect. Exports and innovation are the main components of the plan. The Kentucky Association of Manufacturing has joined the "Dream It Do It" program, which was created to rebrand manufacturing by making it more attractive as a career, and the Science, Technology, Engineering, and Manufacturing (STEM) Education Coalition has created "Project Lead the Way," which focuses on engineering and engineering technology education in middle and high schools. The Kentucky Community and Technical College System's (KCTCS) new strategic plan includes more manufacturing program. The manufacturing industry will see a major retirement wave over the next ten years.

Ms. Handmaker said other areas Louisville is focusing on through the Bloomberg initiative include reducing health care costs through restructuring emergence medical services, and converting vacant/abandoned properties to productive use. The city needs to reverse the negative effects of abandoned properties.

Representative McKee said the Lexington/Louisville partnership may be an example of how mayors of smaller cities can work together. Ms. Handmaker said rural communities have expressed interest in a new grant through the Brookings Institute for export initiatives to partner with other cities to develop the best possible strategy for growing exports.

Representative Henley said while there are many unemployed college graduates, he has yet to find one skilled laborer who does not have a job. KCTCS's programs are on target for developing a skilled workforce. They quickly developed a business plan to address the skilled labor shortage.

Responding to Senator Westwood's comments, Mayor Gray said a Brookings cluster analysis aligned northern Kentucky more with the Greater Cincinnati area.

Senator Westwood said it is important to educate children before they leave high school about the advantages of manufacturing careers. His Career Pathways bill will integrate project learning with regular coursework. He hopes the legislature provides appropriate funding for it to be effective. Mayor Gray said perception can be a problem among schools, noting that high schools often push more for university-based education.

Representative Carney said Senator Westwood's bill is important and should be funded. The state should put more focus on vocational careers as an option, and that most school staff direct students towards four-year institutions instead of vocational training.

Representative Gooch said refurbishing brown fields is important. The state should use what is available, affordable, and reliable. He is concerned about the $50 million received by the Sierra Club, which may undermine the state's efforts to grow its economy.

Responding to Representative Julie Adams' question, Ms. Handmaker explained that while various phases of the initiative are being refined, it is too soon to see results. Publicity about the export initiative has generated inquiries from manufacturers. Mayor Gray added that recent publicity of the partnership also has the state seeing results outside the manufacturing sector.

Representative Denham said he had the same concerns as Representative McKee regarding rural areas and issued an invitation for members to attend the upcoming Rural Issues Subcommittee meeting, which will include discussions about rural/urban migration. He said the current trend will see rural manufacturing plants become vacant.

There being no further business, the meeting adjourned at 11:55 AM.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 5th Meeting of the 2012 Interim

October 8, 2012

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Education was held on Monday, October 8, 2012, at 1:00 PM, in the CFSB Center, Murray, Kentucky. Senator Ken Winters, Co- Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators David Givens, Denise Harper Angel, Jimmy Higdon, and Mike Wilson; Representatives John "Bam" Carney, Leslie Combs, Jim DeCesare, Ted Edmonds, C.B. Embry Jr., Kelly Flood, Derrick Graham, Reginald Meeks, Ryan Quarles, Tom Riner, Bart Rowland, Wilson Stone, Ben Waide, and Jill York.

LRC Staff: Kenneth Warlick, Ben Boggs, and Daniel Clark.

Kentucky Youth Advocates

Loretta Maldaner, Director, Purchase Area Health Center Program, presented an award for Chairman Winters for his work with children in the 2012 Regular Session. She stated Chairman Winters was chosen to receive the award because of his efforts to overcome political differences and to make children's lives better in Kentucky.

Chairman Winters thanked Ms. Maldaner for the recognition and stated that a group of foster children and a youth advocacy group who visited him in his office and shared their concerns inspired him to sponsor Senate Bill 213.

Murray State University

Robert Jackson, Associate Vice President, Murray State University, said in the fall of 2011 Murray State University had an enrollment of 10,623 students of which 1,520 were first time freshman. Murray State University has five regional campuses located in Henderson, Madisonville, Hopkinsville, Fort Campbell, and Paducah, Kentucky. Murray State has made the list of Forbes magazine's 100 best college buys in the United States for the last three years. For 22 consecutive years, U.S. News and World Report has ranked Murray State University as a top tier institution in the United States. Murray State is the highest ranked public comprehensive institution in the Commonwealth.

Mr. Jackson stated that Murray State University has had a 40 percent increase in degrees awarded since 1998 and the graduation rate is the second highest in the Commonwealth behind the University of Kentucky at 53.7 percent. The Residential College System at Murray State has made a difference in how students are recruited and retained. Murray State has a very high retention rate for first-time freshman. Mr. Jackson noted how important affordability and accessibility are today and that Murray State ranks well compared to the other institutions in the state regarding tuition and fees. Murray State University has the second lowest tuition rates behind Kentucky State University.

Mr. Jackson said the science campus project started in 1998 and was a multi-year and multi-phased capitol construction project. The final phase will be the Engineering and Physics building, a $33 million facility that is Murray State's first construction priority. Murray State University needs approval for $9.9 million renovation for Hester College and $5.53 million for Capital Renewal Pool Projects. The last several years Murray State University has had a very active fundraising campaign. Murray State passed an original $60 million goal last year and is near $70 million now. Half of the money that comes from fundraising goes to supporting scholarship endowments.

In response to Representative DeCesare's question regarding bonding, Mr. Jackson said Murray State University is similar to Western Kentucky University in regard to bonding without authority from the General Assembly.

Representative Carney applauded Murray State University for everything that has been done and commented on the worldwide attention the fishing program gets.

Responding to a question from Senator Givens, Dr. Steve Cobb, Dean of Science, Engineering, and Technology, said there are 1,400 students who major in the Science, Engineering, Technology and Mathematics (STEM) subjects. These students are also well represented at the regional campuses.

Representative Waide commented on his experience as a Murray State University student and the access that the school gives to people through its regional campuses.

In response to Representative Stone's question regarding projection of enrollment over the next five or ten years, Mr. Jackson said he projects only a small moderate growth. Mr. Jackson said if 12,000 students enrolled, the school's facilities would be at capacity.

In response to a question from Representative Rollins, Tim Todd, Dean, College of Business and Public Affairs, said many of the students take one or more online classes. There are students from across the world who take online classes at Murray State University.

Chairman Winters' commented on the uniqueness of the Murray State University campus and said the university's priority is its students.

Representative Carney said that Chairman Winters also did a wonderful job as President of Campbellsville University, and the community will never be the same because of his work there.

Murray State University College of Education

Dave Whaley, Dean, College of Education, said he has only been at Murray State University for 90 days. He spent his previous 35 years before coming to Murray State University in education. There are over 1,700 undergraduate and graduate students in the College of Education. The graduates teach in 48 of the 50 states, and some teach internationally. During the last academic year, the College of Education students clocked more than 53,000 hours in 28 school districts. Mr. Whaley said 62 percent of the 2010 graduating class from the College of Education have found positions in teaching or school administration. The graduate program has enrolled an increased number of students. In the masters' degree program for Human Development and Leadership, there has been a 66 percent increase in enrollment in the past five years. The College of Education offers dual credit enrollment courses for high school students. That means students who are juniors or seniors in high school receive both high school and university credit concurrently. In the last year, there were 111 students who participated in this Dual Enrollment Program.

Program of Distinction

Dr. James Gantt, Director, Center for Telecommunications System Management (TSM), said through the Postsecondary Education Improvement Act of 1997, legislators created a nationally recognized Program of Distinction providing statewide access to students. The students who are in the Program of Distinction will blend business classes with engineering classes. There is not a department for TSM, but there is a program. In over 13 years, TSM has had over 300 under graduates and over 200 students that received master's degrees. Dr. Gantt said 40 percent of TSM students take the courses online and those students are from around the Commonwealth and the nation. At the graduate level, all TSM courses are online.

Dr. Gantt stated that a lot of TSM graduates will work in the information technology field and in higher education. There are a lot of graduates that are working at the University of Kentucky, Western Kentucky, and the community college system. TSM is very proud of its faculty, who are a diverse group of people. The faculty at TSM has one thing in common, having worked many years in industry before entering teaching. TSM reaches out to high schools in many different ways because TSM believes STEM is important. TSM tries to interest students by giving them real work to do. TSM has a Cyber Academy where high school students can attend a free one week academy to acquaint them in TSM. TSM is also a program that partners with telecommunication associations. The Information & Telecommunications and Education & Research Association (ITERA) is a group of 20 universities that Murray State University is a part of. TSM is also involved with the Kentucky Telephone Association (KTA) and Tennessee Telecommunications Association (TTA).

In response to Representative Waide's question regarding what TSM is doing for the Marines, Dr. Gantt said TSM is developing applications to be used on smart phones for the military.

In response to a question from Representative Riner, Dr. Gantt said TSM provides computer information technology for the military and applied most of that technology to homeland security.

Computer Services, Inc. (CSI), Paducah, Kentucky

Stan Eckenberg, C.E.O. and President, Computer Services, Inc. (CSI), Paducah, Kentucky, said CSI is a software company located in Paducah, Kentucky. CSI is heavily focused on the financial services industry. CSI started in 1965 and today has annual revenues exceeding $180 million with annual income about $25 million and 1,000 employees working in the 29 offices across the United States. Mr. Eckenberg explained what CSI does and stated that when a person uses a debit card, writes a check, or withdraws money from an ATM machine, CSI runs the computers that make those things happen. When a person gets a statement from a bank, signs on to internet banking, or checks balances on an IPhone, CSI wrote the software that makes those things happen. CSI is essentially the computer department for a bank. Half of the banks in the United States keep facilities, computers, and staff to do all of the accounting themselves. The other half of banks in the United States hire a company like CSI to do that for them.

Mr. Eckenberg said CSI helps customers comply with government regulations, secure customers' data from hackers, and help the F.B.I. track the financial matters and activities of terrorists and drug lords around the country. CSI supplies products and services to over 5,000 financial institutions in the United States. CSI also supplies services to companies in other industries such as insurance, the manufacturing industry, and online services.

Mr. Eckenberg said a company like CSI has a critical need for talented personnel who can build and run CSI's massive telecommunication systems. With a private network of over 35,000 online devices and internet access from all over the world, CSI is required to have the network running 24 hours a day, seven days a week. Murray State and the TSM program has been a tremendous asset to help provide the telecommunications personnel CSI needs. As of today CSI has hired 22 employees straight out of the TSM program.

In response to Representative Stones' question regarding the total growth in the telecommunications industry, Mr. Eckenberg said cloud computing is very important. TSM provides what is required to enter the business of cloud computing and CSI is fifth in the United States as far as number of dollars generated from cloud computing. This is projected to grow at 30 percent a year over the next five years.

In response to Chairman Winters' question regarding CSI and TSM's internship program, Mr. Eckenberg said TSM and CSI runs an internship program every summer with usually about 15 to 20 summer interns in each one. Dr. Gantt said TSM requires every student to do an internship for three hours credit.

In response to Representative Meeks' question regarding security with online banking, Mr. Eckenberg said security is a daily concern of CSI. CSI has never been hacked and he doesn't know many banks that have been hacked. CSI is regulated by the government and have annual checks on everything being done along with measures to go by to keep things secure. Dr. Gantt said TSM realizes how important security is now and TSM has provided some programs to families and high school students on security.

In response to Representative Riner's question regarding a Chinese threat of hacking into our infrastructures, Dr. Gantt said the National Security Agency has a program to certify security training programs. TSM and CSI are very much aware of Chinese security hacking issues.

In response to Representative York's question regarding cloud computing, actual roles, and job descriptions involved with CSI and TSM, Mr. Eckenberg said the important part about the cloud is the management of resources. If a business lacks storage resources it can use the cloud, which means there are a lot of people employed to keep the cloud secure. Dr. Gantt said search capability is another advantage of the cloud.

In response to Representative Carney's question regarding recommendations for protecting schools using technology, Dr. Gantt said security is a big issue particularly with people writing passwords on paper and using simple passwords. It makes it easy for people to hack into computers when one uses simple passwords.

With no further business before the committee, the meeting adjourned at 3:04 p.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 3rd Meeting of the 2012 Interim

September 21, 2012

Call to Order and Roll Call

The 3rd meeting of the Special Subcommittee on Energy was held on Friday, September 21, 2012, 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, Dorsey Ridley, Katie Stine, Robert Stivers II, and Johnny Ray Turner; Representatives Royce W. Adams, Rocky Adkins, Dwight D. Butler, Leslie Combs, Tim Couch, Will Coursey, Jim Gooch Jr., Wade Hurt, Thomas Kerr, Martha Jane King, Lonnie Napier, Sannie Overly, Tanya Pullin, Tom Riner, Fitz Steele, and Brent Yonts.

Guests: Secretary Len Peters, Energy and Environment Cabinet; John Davies, Deputy Commissioner, Department for Energy Development and Independence; Lee Colten, Assistant Director of Efficiency and Conservation, Department for Energy Development and Independence and Stacey Paradis, Deputy Director, Midwest Energy Efficiency Alliance; and Brandon Nuttall, Kentucky Geological Survey, University of Kentucky.

LRC Staff: D. Todd Littlefield, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The July 20, 2012 minutes were approved, without objection, by voice vote upon motion made by Representative Hall and second by Representative Gooch.

Carbon Capture and HB 259 (2011) (KRS 353.804,812)

Secretary Len Peters, Energy and Environment Cabinet, explained that HB 259 directed the Energy and Environment Cabinet (EEC) to seek carbon capture and storage projects, coordinate with surrounding states on issues related to underground migration of stored carbon dioxide (CO_2), and report to the legislature on the status of projects. Secretary Peters stated that the drivers for carbon capture storage had changed, and instead of CCS the federal emphasis has shifted to carbon capture, utilization and storage (CCUS). The focus is on enhanced resources recovery such as oil and gas. New storage projects are not being initiated because utility companies are looking at natural gas to meet regulatory requirements.

Secretary Peters stated that there are agreements with LG&E and KU for a potential carbon capture storage project. The E.W. Brown plant has been selected as the best site for storage capacity, but to proceed, the project would require sufficient third party funding.

Secretary Peters said that discussions have taken place with surrounding states for carbon capture and storage, but the focus has shifted because natural gas dominance has diminished the urgency for addressing CO_2 from coal-fired power plants. Kentucky will continue to be a part of Midwest and Southeast Carbon Sequestration Partnerships through the Kentucky Geological Survey and the Southern States Energy Board. The focus of the partnerships will be to continue characterization of regional geology and testing of how large volumes of CO_2, will behave.

In other carbon capture sequestration activities, Secretary Peters said that the Energy and Environment Cabinet had provided the Center for Applied Energy Research (CAER) funding for the algae pilot project. The pilot project would involve growing algae using the captured CO_2 from a power plant. It is hoped that biofuels or bioproducts can be produced from algae. The Carter County carbon injection test well, which was a component of House Bill 1, is just underway.

In response to Representative Gooch, Secretary Peters said that there were several reasons for shifting to natural gas such as environmental regulations, the low cost of natural gas, and the slow economy. There is a lot of natural gas in reserve, but the price may remain volatile.

In response to Senator Stivers, Secretary Peters said he did not know the status of the Danbury pipeline. Senator Stivers noted that the federal regulatory process had driven up of the price of coal, and the same would eventually happen for natural gas.

Kentucky Action Plan for Energy Efficiency, Stimulating Energy Efficiency in Kentucky

Mr. John Davies, Deputy Commissioner, Department for Energy Development and Independence, stated that Stimulating Energy Efficiency in Kentucky (SEE KY) was established in 2010 and is designed to develop a Kentucky Action Plan for Energy Efficiency. At its August 2012 meeting, SEE KY stakeholders discussed recommendations to improve energy efficiency by creating an exchange for electric utilities to share information and experiences, to include all regulated and non-regulated utilities in Kentucky. The stakeholders also recommended increased educational and training programs on energy efficiency for residential, commercial, and industrial applications. One proposed short term action regarding residential efficiency would be to expand and enhance the Kentucky Home Performance Program by working to coordinate KHP with existing utility programs and rebates. Mr. Davies stated that potential legislation for commercial efficiency would amend existing tax incentive structure for commercial users, encouraging energy efficiency upgrades and performance, extend HB 2 efficiency bond mechanism to commercial entities, and create incentives for landlords of commercial rental property, invest in energy efficiency building upgrades (Green Lease model). Mr. Davies said that potential legislation would increase financial incentives for industrial energy users by amending existing tax incentive structure, linked to energy efficiency upgrades and performance.

Mr. Davies said that the stakeholders recommend that (1) FEMA funds provided for home rebuilding or replacement should require that new structures be built to higher efficiency standards, and (2) states should have more flexibility in how to direct LIHEAP funds to weatherization.

Representative Hall stated that Kentucky should make it a priority, by a resolution, to use LIHEAP funds for weatherizing homes.

In response to Representative Combs, Mr. Davies said that information from utility companies regarding energy efficiency can be found on SEE KY's web site.

In response to Representative Martha Jane King, Mr. Lee Colten, Assistant Director of Efficiency and Conservation, Department for Energy Development and Independence, said that some co-ops are tracking high energy users.

Why Not an Ethane Cracker for Kentucky?

Mr. Brandon Nuttall, Kentucky Geological Survey, University of Kentucky stated that Shell's announcement of its plan to build an ethane cracking facility in Pennsylvania had created interest in attracting such a facility to Kentucky. An ethane cracker removes natural gas liquids such as ethane, propane, butanes, and pentanes. When gas liquids are present in high amounts, the gas is considered wet, and considerable profit can be made from selling the separated liquids to industries such as the plastics industry. Although 35 Kentucky counties produce natural gas, Kentucky does not have vast reserves of shale gas, and Kentucky's gas is relatively dry. Additionally, the predominant flow of natural gas resources through Kentucky pipelines is from the southwest to large markets in the northeast. This would limit the feasibility of importing gas from shale gas states (West Virginia, Pennsylvania, New York) to a cracker in Kentucky. All these factors make Kentucky unattractive as a potential location for an ethane cracking facility.

There being no further business, the meeting was adjourned.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 4th Meeting of the 2012 Interim

October 29, 2012

Call to Order and Roll Call

The 4th meeting of the Special Subcommittee on Energy was held on Monday, October 29, 2012, at 10:00 AM, at the Center for Applied Energy Research, Lexington, Kentucky. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Keith Hall, Co-Chair; Senators Joe Bowen, 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, Tim Couch, Jim Gooch Jr., Sannie Overly, Tanya Pullin, Tom Riner, Kevin Sinnette, John Will Stacy, Fitz Steele, and Brent Yonts.

Guests: Dr. Eli Capilouto, President of the University of Kentucky; Anthony Hatton, Director, Division of Waste Management; G.C. Kincer, Mayor of Jenkins, Kentucky; D. Charles Dixon, former Mayor of Jenkins, Kentucky; Mr. Anthony Hatton, Director, Division of Waste Management, Department for Environmental Protection, Energy and Environment Cabinet and Rodney Andrews, Executive Director, Center for

Applied Energy Research.

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

The September 21, 2012 minutes were approved without objection, by voice vote, upon motion made by Representative Steele and second by Representative Yonts.

Contaminated site in Jenkins, Kentucky

Mr. D. Charles Dixon, former Mayor of Jenkins, Kentucky, testified about environmental concerns that face the city of Jenkins and the towns located downstream from Elkhorn Creek, including Levisa Fork and the Big Sandy River. He explained that he and his deceased wife, during their childhoods and married lives, lived near maintenance shop buildings formerly owned by Consolidation Coal Co., No. 204 Mine and then sold to Beth-Elkhorn Coal Corporation. Refuse from the coal companies was dumped near what was called the Beth-Elkhorn Division Shops which lies next to the Elkhorn Creek. Over the years, the electrical transformers were drained and sprayed on the streets to abate dust, and former employees said they used the oil to wash their soiled hands. It was generally known that the oil drained from the electrical transformers contained PCBs, which are carcinogenic. Several former employees who worked at the shop area died of cancer. His wife, Lanna, developed a rare degenerative disease called Progressive Supranuclear Palsy (PSP). She participated in a PCP research study at the University of Louisville until her death on April 10, 2012. Although the results have not been released yet, her doctor was concerned that PSP was a result of an environmental problem.

Mr. Dixon noted that the shop area is owned by Gary Royalty who leases the property to a trucking company. He asked that the appropriate state agency take necessary steps to address the hazardous environmental pollution that is still in the ground surrounding the shop area and other parts of Jenkins.

Mr. G. C. Kincer, Mayor of Jenkins, agreed that the shop area was an eyesore, but that Jenkins needed verification from the Environmental Protection Agency that the area surrounding the shop and the city was toxic before proceeding with legal action.

In response to questions from Senator Jones and Senator Harris, Mr. Kincer stated that, if drainage from the site was found to be contaminating surface water, it would affect people downstream to Elkhorn City.

Mr. Anthony Hatton, Director, Division of Waste Management, Department for Environmental Protection, Energy and Environment Cabinet, stated that the department responds to complaints and information received. From 1989 through 2012, the department has responded to complaints regarding 10 transformers that were lying on top of the ground at the Jenkins site. Inspectors found containers with no labels and some transformers. At that time, soil samples were taken and no PCP was found. The present owner, Mr. Royalty, pulled more soil samples in August, but was notified that he needed to drill deeper. Inspectors recently found that the barrels of liquid had been removed.

Senator Smith noted that HB 465 provides liability relief to someone who did not cause the problem.

In response to Representative Hall's questions, Mr. Hatton said that brownfield grants can be used for cleanup. Also, the results of the new soil sampling tests should be available in February, 2013. He said that he would forward that information to the chairs of the Natural Resources, Special Subcommittee on Energy, Tourism Development, and Energy committees, and to the Mayor of Jenkins and Mr. Dixon.

Introduction and tour of new laboratory building, Center for Applied Energy Research

Mr. Rodney Andrews, Executive Director, Center for Applied Energy Research (CAER), discussed the operational mission of CAER and upon conclusion he conducted a tour of the new laboratory building. The mission of CAER is to execute a research program designed to develop new and more effective and environmentally acceptable uses for coal and to improve existing uses for Kentucky's fossil fuels and other natural resources. The United States needs more mining engineers, instead of technical engineers. Top-notch researchers, who were educated in the U.S., take jobs in China and India. As an example, he said that China is investing in coal to liquids plants and are in the process of building new plants.

In response to questions from Senator Smith and Senator Bowen, Mr. Andrews stated that CAER is not a college within the University of Kentucky. It is a research center that works closely with all the colleges that are a part of the University such as mining, chemistry and agriculture.

There being no further business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Fourth Meeting of the 2012 Interim

October 17, 2012

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 17, 2012, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:10 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Tom Buford, David Givens, Denise Harper Angel, Alice Forgy Kerr, Dennis Parrett, Joey Pendleton, Katie Stine, and Jack Westwood; Representatives Julie Raque Adams, Bob M. DeWeese, Kelly Flood, Brent Housman, Joni L. Jenkins, Mary Lou Marzian, Darryl T. Owens, Susan Westrom, and Addia Wuchner.

Guest Legislator: Representative Jimmie Lee.

Guests: Cindy Heine, Associate Executive Director, Prichard Committee; Libby Doggett (on video), Director, Pew Home Visiting Campaign, Pew Center on the States; Jeff Dean, Pendleton County Attorney, and Yancy Edwards, Fight Crime: Invest in Kids; Ruth Ann Shepherd, M.D., Office of Early Childhood Development, Department for Public Health, Cabinet for Health and Family Services; Lynn Bennett, HANDS Family Support Worker, Family and Children's Place, Edwina Hazel and Monique Lewis, HANDS participants; William Bryant, MD, Patient Safety Officer, Owensboro Medical Health System; Mike Rodman and Preston Nunnelley, M.D., Kentucky Board of Medical Licensure; Bill Doll, Jackson and Kelly, representing the Kentucky Medical Association; Kate Wood Foster, Legislative Liaison, and Hollie Hopkins, General Counsel, Office of the Governor; Andrew Wood, Emergency Medical Training Professionals; Jim Cecil, Kentucky Youth Advocates; Pam Duncan, Legal Counsel, Bill Young, Director of Educational Licensure, and Mike Poynter, Kentucky Board of Emergency Medical Services; Steve Veno, Child Support Enforcement, Cabinet for Health and Family Services; Darla Bailey, President, Kaleidoscope, Inc., Younger Adult Day Health Center; Carol Borden and Paula Schenk, Kentucky Board of Nursing; Sarah S. Nicolson, Kentucky Hospital Association; Gary Blalack, GlaxoSmithKlein; Liz Ferguson, Family and Children's Place; Stephanie Brammer-Barnes, Office of Inspector General, Cabinet for Health and Family Services; and Karen Chrisman and Ken Mitchell, Governor's Office of Electronic Health Information, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Mansfield, Jonathan Scott, Sarah Kidder, and Gina Rigsby.

Approval of the Minutes

A motion to approve the minutes of the September 19, 2012 meeting was made by Senator Bowens, seconded by Senator Givens, and approved by voice vote.

Report of Subcommittee Meeting

Senator Stine, Co-Chair of the Families and Children Subcommittee, reported that the subcommittee heard testimony about the Kentucky Foster Care System and the Strategic Planning Committee for Children in Placement from Teresa James, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, and Michelle Sanborn, President, Children's Alliance. The subcommittee also heard testimony about school required immunizations for children from Kraig E. Humbaugh, M.D., M.P.H., State Epidemiologist, Director, Division of Epidemiology and Health Planning, Department for Public Health, Cabinet for Health and Family Services, and Kay Kennedy, Director, Division of District Support, Office of Administration and Support, Kentucky Department of Education. Testimony on Executive Order 2012-585 relating to the Child Fatality and Near Fatality External Review Panel was given by Sara Osborne, Legislative Liaison, and Tom Cannady, Staff Assistant, Justice and Public Safety Cabinet. A motion to accept the Families and Children Subcommittee report was made by Senator Stine, seconded by Senator Givens, and approved by voice vote.

Consideration of Referred Administrative Regulations

201 KAR 20:230 – establishes requirements and procedures for the renewal of a nursing license; **201 KAR 20:370** – establishes requirements and procedures for licensure for nurses; **201 KAR 20:411** – establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner; **202 KAR 7:601** – establishes requirements for an organization to be approved by the Kentucky Board of Emergency Medical Services as an Emergency Medical Service Training and Education Institute (EMS-TEI) and also establishes standards for the certification and recertification of EMS educators; **900 KAR 9:010** – establishes the procedures for participation by health care providers in the Kentucky Health Information Exchange (KHIE); **906 KAR 1:160 & E** – establishes the Kentucky Electronic Methamphetamine Precursor Tracking (KEMPT) system; **921 KAR 1:001** – establishes definitions of terms used by the cabinet in administrative regulations pertaining to the Child Support Enforcement Program; **921 KAR 1:380** – specifies the process by which an individual may apply for child support services, the scope of services available, and the process for an intergovernmental case; **921 KAR 1:400** – establishes the requirements for the establishment, review, and modification of child support and medical support orders; and **921 KAR 1:410** – establishes procedures for collection and enforcement of child support.

Pam Duncan, Legal Counsel, stated that the administrative regulation was amended to comply with current medical practices.

Andrew Wood, Lexington paramedic and educator, stated that the administrative regulation require schools to have a 30 percent pass rate to continue operating. In 2010, Kentucky tied for last place for first-time pass rate for EMTs with national registry. The KBEMS passed a resolution to make the pass rate 68 percent for 2012. He questioned why the administrative regulation states a 30 percent pass rate is acceptable. Ms. Duncan stated that

KBEMS went through the public comment period, and no one commented on the 30 percent pass rate.

In response to questions by Senator Denton, Bill Young, Director of Education Licensure, Kentucky Board of Emergency Medical Services, said that the administrative regulation specifically states that identification of competency of EMS professionals will not be solely by the pass rate. One of the administrative regulations states that a new student has the right to ask for and receive the institution's pass rate. The 30 percent pass rate was a compromise. The administrative regulation will hold the Training and Education Institutes (TEIs) to a greater accountability than in the past. Taken as a whole, the administrative regulation tightens the standards. All TEIs that offer paramedic training will be required to be accredited by a national agency. Requirements have been tightened up for anyone who wishes to become an EMS educator. An EMS educator has to have a Bachelor of Science degree in education or complete 40 hours of the national Association of EMS education instructor's course. Kentucky is on target to finish with a 66 percent pass rate. The KBEMS will now conduct announced site visits to see if there are any problems and offer assistance to TEIs. Ms. Duncan stated that the 30 percent pass rate is to pass the National Registry exam not the course itself. A student has six opportunities to pass the exam over a two-year period before having to repeat the course and begin the testing process again.

A motion to amend 202 KAR 7:601 by stating on page 4, Section 5 (16), by deleting thirty (30) and inserting fifty (50) in lieu thereof, was made by Senator Buford, seconded by Senator Denton, and approved by voice vote. The KBEMS agreed to the amendment. A motion to accept the referred administrative regulations as amended was made by Senator Buford, seconded by Senator Denton, and approved by voice vote.

In response to questions by Representative Owens, Mr. Young stated that if the 50 percent pass rate is not attained, a plan of corrective action would be implemented to correct the problems. The TEIs will be required to advise students that they have the right to ask for and receive the pass rate. Ms. Duncan stated that until all students in a course finish the six attempts to pass the exam, there is no way to know the ultimate passage rate.

In response to questions by Senator Stine, Mr. Young stated that if a student does not pass the exam, there is a two-week waiting period before being able to take the exam again. If a student fails the exam three times, the student is required to take a refresher course. The National Registry exam is computer adapted and is either a pass or fail. At a certain point the software is able to calculate if the candidate is or is not minimally competent and will shut itself off. Scores are received within 24 hours.

In response to a question by Representative Wuchner, Mr. Young stated that if there is no prior certification, the student is not allowed to function as a provider on the ambulance until the exam is passed and the student is licensed by KBEMS.

Health Access Nurturing Development Services (HANDS)

Cindy Heine, Associate Executive Director, Prichard Committee, stated that quality early childhood programs like HANDS are critical to reach education goals of college and career readiness for all students. The Pew Center on the States is a division of the Pew Charitable Trust that identifies and advances effective solutions to critical solutions facing states.

Libby Doggett, Director, Pew Home Visiting Campaign, Pew Center on the States, stated that Kentucky has identified home visiting as one of the smartest strategies a state can use to produce measurable improvement for at-risk families and produce meaningful savings for tax payers. Quality home visiting helps address some of the nation's costliest problems like child abuse and neglect, low birth weight, school failure, poverty, unemployment, and crime. Kentucky stands out as a national home visiting leader because services are integrated within a comprehensive system of care helping families in all 120 counties. Kentucky will face increasing funding challenges if the Tobacco Settlement funds continue to decline. To maintain and grow the HANDS program, Kentucky will need to replace tobacco funds with a more sustainable funding source.

Jeff Dean, Pendleton County Attorney stated that Fight Crime: Invest in Kids is a national organization consisting of approximately 5,000 law enforcement and prosecutors. Experience shows that Kentucky needs to invest in programs such as HANDS to get early intervention in homes. There are approximately 700,000 child abuse or neglect cases reported nationally. In 2010, there were 17,000 reported cases in Kentucky and over 30 deaths. The youngest children are the most vulnerable victims often ending in death. Approximately 30 percent of child abuse victims grow up to be abusers or grow up and become victims of crime. Research shows that early intervention will prevent repeat offenders. Without programs like HANDS, there will be a continual downward cycle.

Ruth Ann Shepherd, M.D., Office of Early Childhood Development, Department for Public Health, Cabinet for Health and Family Services, HANDS is a voluntary, intensive weekly home visitation for first time moms and dads regardless of income from prenatal care until a child is two years of age, and is designed to improve both health and social outcomes. The goals of the program are for moms to have positive pregnancy outcomes, optimal child growth and development, health and safe homes for children, and family self-sufficiency. Brain, cognitive, and behavioral development are linked to both educational and health outcomes later in life. The HANDS program serves approximately 10,000 to 11,000 families annually in all 120 counties. Case workers conduct over 700 home visitation services on a daily basis and over 14,000 on a monthly basis. The Maternal, Infant, and Early Childhood Home Visiting Program administered by the Health Resources and Services Administration, Administration for Child and Families, U.S. Department of Health and Human Services will allocate $1.5 billion over five years. To be eligible, states are required to maintain current funding for existing home visiting programs as of March 2010. Kentucky's maintenance of effort (MOE) is $8.3 million. The purpose of the legislation is to strengthen and improve the programs and activities carried out under Title V, to improve coordination of services for at-risk communities, and to identify and provide comprehensive home visiting services to improve outcomes for families in at-risk communities. The Home Visiting Grant will expand the HANDS to all at-risk moms, add mental health brief interventions, and improve systems of care and referral for at-risk families with children birth to three years of age. In 2010, Kentucky's formula grant was $1.4 million and implemented in Owsley, Lee, Wolfe, Leslie, Letcher, Knott, Perry, Breathitt, and Lawrence Counties. In 2011, Kentucky used the $1.9 million grant allocation to implement programs in Floyd, Johnson, Magoffin, Martin, and Pike Counties. In 2012, Kentucky received $6.8 million competitive grant.

Lynn Bennett, Family Support Worker, Family and Children's Place, stated that she conducts weekly visits with first-time moms and dads. She works with the parents to make sure the child's shot records are up-to-date, works with the child to help developmental growth, and helps parents set goals. Over her fifteen years working with children and parents, she has seen very positive outcomes. A nurse conducts visits with the families every three months.

Edwina Hazel stated that she has been a HANDS participant since December 2011. The HANDS program has helped her learn how to become a good mother.

Monique Lewis, HANDS participants, stated that she has been a HANDS participant since October 2010. Since being in the program, she has become more independent and has learned how to take care of her child. She urged members to continue to fund the program to help future participants learn to become a better parent and give children a chance to be healthy and productive adults.

In response to questions by Senator Westwood, Ms. Bennett stated that all protocols are followed if there is any suspicion of neglect or abuse, and DCBS is called immediately. Dr. Shepherd stated that the grant money was distributed according to risk factors per county. The grant is written that the funds will be used in the higher at-risk counties first.

Kentucky Spirit

Audrey Tayse Haynes, Secretary, Cabinet for Health and Family Services, stated that the cabinet has had daily conversations with Kentucky Spirit over the past several weeks about its MCO contract. Kentucky Spirit experienced more losses in Kentucky than estimated. Kentucky Spirit sent a letter to the cabinet on the morning of October 17 stating that it would terminate its contract as of July 5, 2013. The cabinet will take the necessary steps to ensure that the 125,000 to 140,000 Medicaid participants covered by Kentucky Spirit will be transitioned into CoventryCares and Wellcare. Kentucky Spirit is in breach of contract by leaving Kentucky one year early, and the cabinet will pursue damages for any expenses and money incurred because of the departure.

In response to questions by Senator Denton, Secretary Haynes stated that the costs are outlined in the MCO contract as being legitimate costs that should an MCO exit the state early the cabinet would pursue. An official dispute was sent to the cabinet on October 12, 2012 by Kentucky Spirit and a cabinet hearing will have to be conducted and resolved within 30 days. The dispute is the cabinet would not agree to Kentucky Spirit's request to add more money to its contract. When all three MCOs signed a contract with the cabinet, they had built in rates. Kentucky Spirit contracted and received a one percent rate increase in July. Wellcare and CoventryCares received a three to five percent rate increases in October. When a risk adjustment is done, the MCO with the highest number of members and the highest acuity rates will receive the largest increase in rates, and Kentucky Spirit has maintained a healthier population. The cabinet agreed to the negotiated rate in the contract as well as the one percent increase. As of end of October, Kentucky Spirit's rate per member per month is approximately $310, and CoventryCares and Wellcare's is approximately $400.

In response to questions by Senator Kerr, Secretary Haynes stated that Kentucky Spirit is responsible for the damages and costs to Kentucky. The company is in breach of contract by leaving the state early, and the cabinet did not give permission to leave before the contract ends. Centene, the parent company of Kentucky Spirit, is a $6 billion company that operates in 19 other states. Kentucky Spirit will be liable if there are any costs to the state because of its breach of contract. The cabinet asked that the MCOs agree that all of them would either have or not have co-pays, so each MCO agreed to have co-pays. Kentucky Spirit has a healthier population, and therefore when a risk adjustment was done, CoventryCares and Wellcare received more money because of their higher acute population.

In response to questions by Representative Owens, Secretary Haynes stated that the current MCO contracts will end in June 2014, and there is no plan to rebid Kentucky Spirit's contract to another entity. The cabinet will work with CoventryCares and Wellcare on how to transition the Kentucky Spirit membership to them over a period of time. The MCO contracts in place have four one-year extensions, but the cabinet has the option to rebid the entire state in 2014. Of the 550,000 Medicaid members, CoventryCares started with 212,000 members and as of September had 230,000 members; Wellcare started with 121,000 members and ended with 150,000 members; and Kentucky Spirit started with 219,000 and ended with 137,000 members.

In response to questions by Senator Givens, Secretary Haynes stated that Price, Waterhouse, Coopers found the data book to be actuarially sound. Each MCO had the same data and opportunity to question the information in the data book. If the data book is wrong, the cabinet has an obligation to take a look at it and be able to reconcile it with the companies. It is important to that note that there have been no attempts by the MCOs to work with the cabinet on incorrect data. Kentucky Spirit bid a rate that was substantially lower than the other two MCOs, and even went back and lowered the rate again. Each MCO was allowed to determine when there would be a rate increase and the amount of the increase. It is important that CoventryCares, Wellcare, Passport, and Humana remain successful companies in Kentucky so citizens can become healthier. The rate increases were factored into the budget for fiscal year 2014.

In response to questions by Senator Stine, Secretary Haynes stated that there are negotiated rates within the contracts of the MCOs. There are provisions in the contract for damages due to breach of contract. The weighted rate that includes acuity for Wellcare is $360, $341 for CoventryCares, and $311 for Kentucky Spirit.

In response to questions by Representative Housman, Secretary Haynes stated that each MCO has new members every month due to various reasons, and the other two MCOs have the capacity and willingness to accept Kentucky Spirit's population. Kentucky Spirit wanted to do business with Kentucky and made an aggressively low bid. The company projected substantial losses in the first two years doing business in Kentucky. It is not necessarily Kentucky's fault for accepting the lowest bid.

In response to questions by Senator Bowen, Secretary Haynes stated that she did not know if it is a pattern for Kentucky Spirit to pull out of any state before the contract ended.

In response to questions by Representative Marzian, Secretary Haynes stated that she would have to ask DMS to provide the information on how much Kentucky Spirit was paid for members and how much was paid out on members for healthcare. When corporations file quarterly earnings reports, researchers on Wall Street estimate losses based on contracted rates and number of members. All three companies have lost money in Kentucky to date.

Representative Flood asked that the cabinet provide information on whether Kentucky Spirit had left any other state, and if so, the circumstances and reasons of the departure.

In response to a question by Senator Westwood, Secretary Haynes disagreed with the statement by Kentucky Spirit that there is not a viable path to a sustainable Medicaid managed care program in Kentucky, and stated that Kentucky can have a successful MCO program. Kentucky Spirit believes it can get out of its contract with only a six-month notice which is untrue.

In response to questions by Senator Kerr, Secretary Haynes stated that the anticipated savings from having Medicaid managed care in Kentucky was never added to the budget, so the cabinet fully anticipates meeting its budget. Based on practices in other states, the MCOs have a model that looks at utilization rates, cutting down ER visits, and control pharmacy costs. Kentucky has been more difficult than the MCOs anticipated.

In response to questions by Senator Denton, Secretary Hanes stated that Kentucky Spirit's contract states it will continue to make payments owed to providers. Centene has a subsidiary incorporated in each of the states it resides.

Senator Parrett stated that Kentucky Spirit signed a contract for a one percent rate increase.

Prescription Pain Management (2012 HB 1)

William Bryant, MD, Patient Safety Officer, Owensboro Medical Health System, testified that everyone agrees that controlled prescription drug misuse and diversion is a significant growing problem in Kentucky. While agreeing with the intent of the law, the unintended consequences include patient safety concerns, access to care, and barriers to safe and appropriate pain management. Physicians now have two laws to comply with the statutory prescribing standards in 2012 House Bill 1, and the Kentucky Board of Medical Licensure (KBML) regulations. Each law has different requirements that must be met prior to prescribing a controlled substance. The legal ramifications and punitive tone intertwined with the complexity of the laws renders a physician reluctant to ever prescribe controlled medications for pain. Failure to fulfill every requirement of the law has significant personal and professional consequences including medical licensure board review and medical license restrictions. Restrictions can means the loss of board and professional certifications, removal from insurance provider lists, and loss of hospital privileges. The stress plus the law's complexity interferes with the ability to think thus increasing the chances of medical error. Concerns include increased emergency room visits, hospital admissions, and nursing home admissions due to inadequate pain control and adverse effect of alternative medications. All patients with pain should receive optimal, safe, and respectful care, particularly the most vulnerable patients in long-term care and hospitals. Dr. Bryant recommended the following: (1) repeal KRS 218A.205 mandating to the licensing boards to create prescribing standards for Kentucky physicians; (2) amend KRS 218A.205 mandating that licensing boards issue prescribing standards for controlled substance used to treat long-term pain, rather than all controlled substances; and (3) eliminate the hospital reporting requirement in KRS 218A.202.

In response to questions by Senator Denton, Dr. Bryant stated that the Kentucky Board of Medical Licensure (KBML) emergency administrative regulations include Ambien and testosterone. Ambien is potentially habit forming, but he did not know why testosterone would be regulated.

Senator Bowen stated that the legislation and supporting administrative regulations encumbers physicians and deterring the practice of good medicine. House Bill 1 makes Kentucky unattractive for future physicians.

In response to Representative Burch, Dr. Bryant stated that as he understands, individuals already on medications will be grandfathered in and a doctor would have to document a patient is stable on the current dose and run a KASPER report every three months. House Bill 1 is very challenging to understand.

In response to questions by Senator Pendleton, Dr. Bryant stated that it is unclear who pays for a drug test. KASPER is a great tool for law enforcement. The original statute that applies to hydrocodone, hydrocodone controlling medicines, contained medicines, and other Schedule III drugs applies in the hospitals and nursing homes. KBML emergency regulations that apply to other medicines such as Ambien and testosterone, do not apply in hospitals and nursing homes. Pain management is an integral part of hospitals and long-term care settings.

In response to a question by Representative Owens, Dr. Bryant stated that if the prescribing standards in KRS 218A.172 are repealed and the KBML develops some workable controlled medicine regulations, it would be a win/win for everybody. Physicians are on board with improving the process to have a better outcome.

Representative Westrom expressed concern that doctors were not involved in the process before the bill passed.

In response to questions by Senator Parrett, Dr. Bryant stated that he is not an expert on House Bill 1, but if the prescribing part was removed and KBML had workable administrative regulations everyone could live with that would cut down drug misuse and diversion in the state, it would probably be a workable bill. KASPER needs to be more voluntary and be more flexible.

Bill Doll, lawyer at Jackson and Kelly, on behalf of the Kentucky Medical Association (KMA), stated that if KASPER could function in real time and make other improvements, it becomes a valuable tool to law enforcement and as a treatment mechanism in terms of the physician enjoying the benefit of a clear awareness of knowing exactly what medications a patient takes. House Bill 1 has some unintended consequences. There are codified standards that are part of the law, not part of the administrative regulation, that dictate what someone has to do when involved in prescribing or dispensing a Schedule II or Schedule III with hydrocodone. The law states that KBML shall promulgate regulations relative to the prescription and dispensing of controlled substances. Emergency administrative regulations have the force of law and penalties. Under the law itself, there is potential for some criminal violations as well as some potential civil liability on the basis of either prescribing too much or prescribing too little.

Dr. Preston Nunnelley, Kentucky Board of Medical Licensure, stated that KBML is listening to groups around the state and getting suggestions. The emergency regulations will be revised in November 2012 to correct many of the problems. Problems that doctors are having are due to either misinterpretation of the statute or the administrative regulations. KMBL is posting clarifications on its web site. KBML wants to change the regulations to be more specialty-specific. What cannot be changed in the emergency regulations hopefully can be changed in the statute.

In response to questions by Senator Denton, Dr. Nunnelley stated that KBML met with multiple committees and did not agree that the administrative regulations are as egregious as people think. Urine screens are inappropriate for everyone and have been changed in the draft administrative regulation. The bill does not keep anyone from getting pain medications. KBML has met with different stakeholders on a regular basis to get their input. Approximately ten pill mills have been shut down. There is no physician in Kentucky that will get in trouble when it is referred to KBML as practicing quality medicine. There are elements of the bill that need to be changed, but overall the bill is working.

Kate Wood Foster, Legislative Services, Office of the Governor, stated that the Governor supported the passage of House Bill 1, and he thinks the successful implementation of the bill is critical and important to the families and communities throughout the state. KASPER is being utilized more robustly. Comments received by the Governor's Office have been discussed with stakeholders and try to look, along with KBML, at what can be changed and adapted to make sure the administrative regulations go along with the intent of House Bill 1, to address the issue of abuse and diversion of prescription drugs in the state.

Representative Wuchner expressed concerns about individuals that have to sign a document to agree to waive their applicable privilege and right to privacy and confidentiality.

In response to questions by Senator Bowen, Dr. Nunnelley stated that a solution is to amend the emergency regulations to rectify the problems. Hollie Hopkins, General Counsel, Office of the Governor, stated that everyone is aware of the provisions of Chapter 13A and recognizes that there are some issues with what can or cannot be done with respect to amending emergency regulations verses filing new emergency regulations. The end goal of all licensure boards is to navigate the statutory mandates to get clarity to provider and patient communities in the most effective and efficient way possible.

In response to a question by Representative Burch, Mr. Doll stated that as the KMBL moves closer to a practical regulatory framework that would allow people to know what the rules are and address some of the problems, the more likely they are to offend the statute.

In response to questions by Senator Denton, Ms. Wood Foster stated that the Governor sees the successful implementation of House Bill 1 as critical. Several stakeholders approached the Governor's Office to help facilitate. The Governor's Office sees itself as a facilitator not an expert opinion. The intention of the Governor's Office is to develop regulations that are both reasonable and practical. Mr. Doll stated that the American Medical Association has provided, typically specialty groups, clinical guidelines that try to help doctors in their practices. When these guidelines become regulations overnight, it does not work. Dr. Nunnelley stated that doctors learn what to prescribe in medical school, residency, fellowship, post-graduate education, and continued medical education. Ms. Hopkins stated that the Governor's Office is exploring all options available as the regulation is developed. The KBML will make the decision to either amend the emergency regulations or withdraw the emergency regulations and file new emergency regulations. Any emergency regulation has to be signed by the Governor, so any change to an emergency regulation would have to be made with the consultation and cooperation of the Governor's Office. Dr. Nunnelley stated that KBML will make recommendations to the Governor that will correct the problems as quickly as possible.

Senator Pendleton stated that it is very, very important to get the public to show up at public hearings to voice opinions and concerns. The board has responded to his requests made at a public hearing.

In response to concerns by Dr. Bryant, Dr. Nunnelley stated a doctor who is practicing quality medicine will not get in trouble with the KBML.

Senator Pendleton wanted the minutes to reflect that he was present until the end of the meeting.

There being no further business, the meeting was adjourned at 4:58 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Fifth Meeting of the 2012 Interim

November 9, 2012

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Health and Welfare was held on Friday, November 9, 2012, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 1:09 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators David Givens, Denise Harper Angel, Alice Forgy Kerr, Dennis Parrett, Joey Pendleton, and Jack Westwood; Representatives Julie Raque Adams, Bob M. DeWeese, Jim Glenn, Brent Housman, Mary Lou Marzian, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, Susan Westrom, and Addia Wuchner.

Guest Legislators: Representatives Keith Hall and Jimmie Lee.

Guests: Gabriela Alcalde, Health Policy Director, Foundation for a Healthy Kentucky; Ashley Palmer, Research Associate, and Genevieve M. Kenney, Senior Fellow, Health Policy Center, Urban Institute; Dr. Andy Moore; Dr. Julie Cerel, Principal Investigator, Military Suicide Bereavement Study; Melinda Moore, Ph.D., Clinical Psychology Postdoctoral Fellow, Military Suicide Bereavement Study, College of Social Work, University of Kentucky; G.G. and George Burns, Sandy Decquiv, and Carolyn Colliver, Change Mental Health Laws in Kentucky; Dr. Nat H. Sandler, Correctional Psychiatrist, Lexington-Fayette County Detention Center; Jan Ulrich, Heath Dolen, and Michele Blevins, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Diona Mullins, Office of Health Policy, Cabinet for Health and Family Services; Andrea Bennett, Kentucky Youth Advocates; Carol Mueller and Pamela McDaniel, Council on Developmental Disabilities; Eric T. Clark, Kentucky Association of Health Care Facilities; Becky Taylor and Don Colliver, National Alliance on Mental Wellness; James Lutz and Julia Costich, University of Kentucky; D.J. Wasson, Department of Insurance; Phyllis Sosa, Department for Aging and Independent Living, Cabinet for Health and Family Services; Carly Dickinson, Eastern State Hospital; Bill Doll and Cory Meadows, Kentucky Medical Association; and Cathy Epperson, NAMI Kentucky.

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

Approval of Minutes

A motion to approve the minutes of the October 17, 2012 meeting was made by Representative Burch, seconded by Representative Glenn, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following administrative regulations were referred to the committee for consideration: **900 KAR 6:060** - Timetable for submission of certificate of need applications; **900 KAR 6:085 -** Implementation of outstanding Certificate of Need when ownership has changed; **900 KAR 6:090** - Certificate of Need filing, hearing, and show cause hearing; **900 KAR 6:130** - Certificate of Need criteria for physician exemption; and **910 KAR 1:240** - Certification of assisted-living communities. A motion to accept the referred administrative regulations was made by Representative Burch, seconded by Representative Marzian, and accepted by voice vote.

Foundation for a Healthy Kentucky

Gabriela Alcalde, Health Policy Director, Foundation for a Healthy Kentucky, stated the foundation is a non-profit, philanthropic organization working to address the unmet health care needs of Kentuckians. The foundation's approach centers in developing and influencing health policy to improve access to care, reduce health risks and disparities, and promote health equity. In a competitive bid process, a review panel consisting of the foundation, the Kentucky Chamber of Commerce, the Kentucky Hospital Association, and the Equal Justice Center, identified the Urban Institute, an independent nonpartisan research and policy institute, as a credible and experienced contractor to conduct a three-year study looking at the implementation of Medicaid managed care in Kentucky. The study can provide objective and reliable information to policymakers, advocates, providers, and communities across the state to help make informed policy decisions to make Kentuckians healthy.

Genevieve M. Kenney, Senior Fellow, Health Policy Center, Urban Institute, stated that the three-year evaluation of Medicaid Managed Care: Implementation in Kentucky was funded by the Foundation for a Health Kentucky and awarded to a team with members from the Urban Institute, the University of Kentucky, and Georgia State University. The team members have expertise in both Medicaid and managed care, deep knowledge of Kentucky's Medicaid program, and vast experience with Kentucky-specific data. Driven by a number of factors, including costs, access to care, and quality of care, Medicaid programs around the country are increasingly relying on risk-based managed care to deliver service to beneficiaries. Risk-based managed care is not new to Kentucky as the Medicaid program has been delivering care through Passport in Region 3 since the mid-1990s. The focus of the evaluation is the introduction of risk-based managed care throughout the rest of Kentucky with three new managed care plans, Kentucky Spirit, Coventry, and Wellcare. In addition to having different plans than in the Louisville region, the statewide implementation includes behavioral health services. Another important difference is the statewide implementation involved more rural parts of the state. Nationally, rural areas are less commonly enrolled in risk-based Medicaid managed care. From March 2011 to November 2011, the state had to carry out a competitive process for selecting plans, develop the infrastructure to provide oversight for the plans, and provide information to beneficiaries on the changes. The plans had to establish operations in Kentucky.

The evaluation relies on a combination of quantitative and qualitative research methods and aims to provide insights about both the start-up phase and long-term operation. In June 2012, site visits were conducted in Central, Eastern, and Western Kentucky, informants from a wide range of stakeholder groups were interviewed, and relevant documents were reviewed. The next two years the team will conduct focus groups with beneficiaries in several regions of the state, conduct follow-up interviews with key informants, and use different data sources to assess how service use patterns and outcomes have changed under risk-based managed care. Generating long-term savings requires strong care management and achieving efficiencies in the service delivery system. Plans will not stay in the market and providers will not continue to participate if costs cannot be covered. Long-term success will also depend on improvements and efficiencies in the way that care is delivered and changes in beneficiary behaviors that contribute to high costs and poor outcomes.

In response to a question by Senator Denton, Dr. Kenney stated that the evaluation does not focus on Region 3's timeline.

In response to questions by Representative Burch, Dr. Kenney stated that the team looked at providers who signed up with all the plans and assessed the overlap of the network. It was hard to establish which services were being provided under each of the different plans from information available in the directories. Dr. Alcalde stated that the evaluation tried to distinguish which providers signed up with all three MCO plans verses one or two plans. There is a concern that if the researchers had a difficult time finding information on which providers participated with a specific plan, beneficiaries would also have a hard time finding the information.

In response to questions by Senator Givens, Dr. Kenney and Dr. Alcalde stated that Kentucky Spirit's business model does not permit the company to stay in Kentucky. Kentucky Spirit's departure does not mean managed care will not ultimately be successful in Kentucky. The question is whether the two remaining MCOs have the ability to meet their bottom line and the state's objectives. One important thing to track is the transition of recipients from Kentucky Spirit to the other two MCOs. The third and fourth quarters should be watched to see if each MCO has a decline in its loss ratio because of the risk adjustment and start-up costs in the state. Ashley Palmer, Research Associate, Health Policy Center, Urban Institute, stated that she was not sure when the information will be available for the third quarter. Dr. Alcalde stated that the Urban Institute will provide the Foundation for a Healthy Kentucky progress reports every six months on both the qualitative and quantitative information. Dr. Kenney stated that if managed care is done correctly, better health outcomes could be achieved. The Medicaid expansion was not part of the evaluation other than how much the Medicaid enrollment would increase if the state took on the expansion. Hospital care will grow more complex under the Affordable Care Act whether or not the state expands Medicaid. It is important to track what happens to funding such as the disproportionate hospital payments (DSH) that providers have historically relied on. Some funding sources may not be there in future years.

In response to questions by Representative Owens, Dr. Kenney stated that in terms of Medicaid expansion there is good solid information about the impacts of insurance coverage. There are estimates of the projected increase in Medicaid enrollment, the coverage impact, and budgetary implications of Medicaid expansion. There will be more signs in the second year that the delivery system is responding to the new incentives under managed care. Dr. Alcalde stated that baseline data on healthcare utilization and outcomes will be provided in the next report that will show changes over time as managed care has been implemented within the Medicaid system. Dr. Kenney stated the information will come from the Medicaid claims encounter data from the cabinet and hospital discharge abstracts.

In response to questions by Senator Parrett, Dr. Kenney stated that provider negotiations occurred after the bidding, so while there were letters of interest with providers, the cabinet had not decided what providers would be reimbursed. Other states have found a way to make managed care work.

Medicaid Managed Care

Senator Denton stated that Passport has 170,000 Medicaid recipients presently but expects to end up with 40 percent of the Medicaid population. The per member per month (PMPM) rate for Humana and Coventry Cares is $473; $457 for Passport; and $445 for Wellcare. If all Medicaid recipients went to Wellcare, $2,287 a month could be saved. Wellcare received 25 percent of the recipients while Care Source who will use the Humana network and Coventry Cares received 48 percent. The auto-assigning of recipients is not working. She questioned why, if Coventry Cares is the most expensive and hardest company to work with, the cabinet would award another expensive contract to the company on the condition that it comply with the first contract. Passport originally negotiated $433 PMPM, but the state ended up raising the rate.

Representative Burch requested the cabinet provide a copy of the letter sent to clients stating they would be able to change MCOs. All clients removed from Region 3 can be reassigned to Passport if requested. In five months Passport will be close to where it was before the reassignments. A lot of clients will feel obligated to stay with the new MCO because they do not know they have the choice to change to a different MCO. If Passport's plan works, why not duplicate it statewide.

Eric Friedlander, Deputy Secretary, Cabinet for Health and Family Services stated that assignment to a MCO was based on the same algorism used throughout the state. The federal government said that Kentucky needed competition; therefore Passport could not be expanded throughout the state or granted exclusive license in Region 3. Passport has more experience with managed care. The letter sent to recipients stated anyone would be allowed to change MCOs for any reason.

Senator Denton stated that if the secretary had requested a one-year extension for the Passport waiver, the federal government would have agreed. Kentucky Spirit's departure will cost the state a lot of money. Some claims have been paid a year late without interest, and there are providers who the cabinet claims to be in the network who are not. Mr. Friedlander stated that other states have had many of the same start-up issues that Kentucky has faced. The cabinet wants and desires good public policy. She questioned why 40 percent of the clients went to the two MCOs with the highest PMPM rate.

Representative Watkins stated that it is a lengthy process for a client to request to get back with a provider. He questioned why assignment of clients had been done by auto assigning without taking continuity of care into consideration. All of the MCOs have a different drug formulary and reimbursement rates.

Christina Helvrin, General Counsel for the Cabinet for Health and Family Services, stated that one reason Kentucky Spirit is leaving Kentucky is it was assigned a lot of members who did not have a primary care physician. Kentucky Spirit continued to be assigned members because the MCOs costs were lower.

In response to a question by Senator Denton, Ms. Helvrin stated when an individual is enrolled in the Medicaid program the cabinet pays providers three months of back health care. The databook had complete data when MCOs were negotiating rates with the cabinet. Members in Region 3 did not receive the three-month past payment benefit because it was not in the waiver.

In response to questions by Senator Givens, Mr. Friedlander stated that in the beginning some providers were paid bridge payments because of cash flow issues to pay claims. Ms. Helvrin stated the enforcement of prompt pay comes from the Department of Insurance.

In response to a question by Senator Denton, Mr. Friedlander stated a call from a recipient who wants to switch MCOs is answered immediately.

Legislative Hearing on Executive Order 2012-783, an Amended Order Relating to the Establishment of the Kentucky Health Benefit Exchange

Carrie Banahan, Executive Director, and Bill Nold, Deputy Executive Director, Office of the Kentucky Health Benefit Exchange, stated that Executive Order 2012-587 created the Kentucky Health Benefit Exchange (KHBE) and was signed by Governor Beshear on July 17, 2012. The KHBE is administratively attached to the Cabinet for Health and Family Services. Executive Order 2012-783 expanded the number of KHBE advisory board members from 11 to 19 to provide additional input. The advisory board reviews programmatic and policy issues and makes recommendations to ensure that Kentucky has an effective health benefit exchange. All appointed advisory members have experience in health benefit administration, finance, health plan purchasing, health care delivery system administration, public health, or health policy issues. The advisory board met September 27, 2012 and October 25, 2012 and formed six subcommittees: Behavioral Health; Dental and Vision, Education and Outreach, Navigator/ Agent, Qualified Health Plans, and Small Employer Health Options Program (SHOP). The cabinet has to file a blueprint with the federal Department for Health and Human Services on November 1, 2012 to establish a state-based exchange and submit a five-year budget estimate and sustainability plan.

In response to questions by Senator Givens, Ms. Banahan stated that the cabinet will pursue legislation to ratify the executive order. She would check to see if there was data handling capacity sufficient to expand the Medicaid roles from 800,000 to approximately 1.4 million in the Deloitte information technology contract.

In response to questions by Senator Westwood, Mr. Nold stated that there is a cost associated with expanding services beyond what is mandated by the federal government. States cannot go below the essential health benefits established by the federal government. The ten categories in the federal law are ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance abuse disorder services, prescription drugs, habilitative and rehabilitative services and devices, laboratory services, preventative/ wellness/chronic disease management, and pediatric services including oral and vision care. All ten categories have to be present within the essential health benefits. The secretary is directed to expand upon the ten categories and include more details in the determination of essential health benefits. Administrative regulations will be promulgated on services and benefits of the qualified health plans. A motion to accept Executive Order 2012-783 was made by Representative Burch, seconded by Representative Glenn, and accepted by voice vote.

Nonprofit Surgery - "Surgery on Sunday"

Dr. Andy Moore stated that Surgery on Sunday (SOS) refers patients to free and reduced price clinics across the state and requires that they obtain a clinic as their primary care home before becoming an SOS patient, provides clients with a pre-operative surgical visit, surgery, and post-operative surgical visit at no cost to the patient, provides required pre-operative imaging due to the generosity of a community partner, and refers patients for post-operative pharmacy needs. The average outpatient procedure costs $7,622 compared to $150 for the same procedure performed by SOS. The average hospital stay is $30,869 and on average Medicaid reimburses 37 percent. The total savings to Medicaid is $53,224,329 and $90,626,211 for hospitals. Since 2005, SOS has served over 4,600 individuals. Over 87,360 hours of volunteer time has been donated and $4 million of in kind donations has been received. SOS is the first of its kind and could be implemented statewide and nationally. Currently, Louisville is in the process of starting a SOS. The United States also has poor people who need help as much as people in foreign countries. Laura Ebert, MSW, Executive Director, Surgery on Sunday, Inc., stated that one-fourth of the SOS patients will no longer need disability benefits due to being able to receive surgery.

In response to questions by Representative Glenn, Dr. Moore stated surgery centers allow the use of the facilities on a rotation basis, but SOS has to pay for the supplies. The volunteer staff comes from all the hospitals all over the state. Currently, there are approximately 900 people on the SOS waiting list. SOS only provides outpatient services. If a patient needs to be admitted to the hospital, hospitals sometimes discount the costs incurred by the patient. The average age of a patient is 40 years.

Military Suicide Bereavement Study

Dr. Julie Cerel, PhD, Principal Investigator, Military Suicide Bereavement Study, and Melinda Moore, Ph.D., Clinical Psychology Postdoctoral Fellow, Military Suicide Bereavement Study, College of Social Work, University of Kentucky, stated that in 2012 the

Department of Defense awarded the University of Kentucky $677,000 to investigate the effects of suicide on individuals directly affected by the suicide death of active duty service members. The Military Suicide Bereavement Study is being funded by the Department of Defense's Military Suicide Research Consortium. The consortium was developed to address the alarming rise in military suicide. During the first 155 days of 2012, there were 154 military suicide deaths which is an 18 percent increase for the same time period in 2011. More troops have died by suicide than in combat since the beginning of the Afghanistan war ten years ago. Suicide is now the leading cause of death among service members. The Department of Veterans Affairs estimates that a veteran dies by suicide every 80 minutes. While only one percent of the American population has served in the current wars in Iraq and Afghanistan, veterans represent 20 percent of the 38,000 Americans who die by suicide annually in the United States. From 2005 to 2011, 51 Soldiers at Ft. Cambell, Kentucky died by suicide. There is still a great deal of confusion about how to manage the problem and aftermath of suicide within the military. Mental health professionals agree that losing a loved one to suicide is a traumatic experience and may have devastating and economic consequences to suicide survivors. Increased contact with suicide, desensitization to death occurs and an ability to fatally harm one's self increases. Until recently, Kentucky was in the top ten states with the highest suicide rates.

The Military Suicide Bereavement Study at the University of Kentucky is designed to examine bereavement experiences and needs of military family members and veterans, as well as community members who have lost loved ones to suicide. The research is a two-year, four-phase project. Phases one through three involves recruitment of approximately 2,000 Kentucky veterans using random-digit dial telephone interviews and participation in a web-based survey. Approximately 1,000 community members will be recruited in the same way to compare experiences with the veterans. Results from this study will help answer what percent of veterans and community members are exposed to suicide and how suicide impacted their lives. It will also be able to explain how the impact of suicide compares to other forms of traumatic death. Approximately 100 military families who have experienced the loss of a recent veteran or active duty military member to suicide in the last five years will also be recruited. The study has shown there is an enormous stigma within the military and in communities surrounding suicide deaths. The experience of civilian family members with the death of a loved one by suicide is very similar to what military families have experienced. Stigmas surround suicide and the people bereaved by it prevent suicide from being adequately treated as a public health issue.

Recent national surveys of mental health professionals have demonstrated that these individuals feel ill-equipped to work with suicidal patients. Increasing competency among clinicians, as well as first responders, may be appropriate to both preventing suicide as well as addressing the needs of those who have been impacted by suicide. Kentucky is encouraged to find ways to successfully engage professional associations in the effort so all mental health clinicians are prepared to work with people who are suicidal and families who have experienced a suicide loss. Coroners need information and support to be able to report more objectively about suicidal deaths.

In response to questions by Representative Burch, Dr. Cerel stated that because the study has just recently started, not enough data has been collected to compare suicide rates between the different wars. The study is centered on veterans who were exposed to suicide within the past five years.

In response to a question by Senator Parrett, Dr. Cerel stated that funding for the Military Suicide Bereavement Study is provided by Department of Defense's Military Suicide Research Consortium.

Assisted Outpatient Treatment for Mental Health

G.G. Burns, parent and mental health advocate, stated that KRS 202A.081, Community Based Outpatient Agreed Order (OAO), needs to be strengthened because it is underutilized and ineffective. The statute should be amended to require the OAO be longer than 60 days and support it with mental health courts, outpatient case management, peer mentoring programs, and supportive housing and employment programs. The <u>Department for Behavioral Health, Developmental and Intellectual Disabilities</u>, Cabinet for Health and Family Services does not collect data on frequency or outcomes of outpatient treatment. Recommendations include: 1) follow the patient and redirect funds for behavioral health care from other systems; 2) adopt national policies such as Assertive Community Treatment (ACT), Assisted Outpatient Treatment (AOT), jail diversion programs, and mental health courts and re-entry services; and 3) invest Kentucky state funds in services and supports to develop programs that serve 20 percent of the clients who use 80 percent of the current resources. States that use AOT show that incarceration rates are reduced 87 percent; arrest rates 83 percent; homelessness rates 74 percent; and dangers to self and suicidal rates 55 percent.

In response to questions by Senator Denton, Ms. Burns stated that an Outpatient Agreed Order should be a minimum of 120 days instead of 60 days. Kentucky needs a model Assisted Outpatient Treatment law.

Dr. Nat H. Sandler, Correctional Psychiatrist, Lexington-Fayette County Detention Center, stated that there is a multitude of family members that have to deal with mental health problems. An important symptom of serious psychiatric disorders is the lack of insight where a person feels nothing is wrong, refuses treatment, and sometimes ends up in jail. Approximately one percent of individuals taken to jail are put on a suicide watch in a secure, observed setting. There is no way to predict if someone is going to harm themselves or others. Law enforcement officers can take someone to a mental facility if it is believed that person is threatening or acting erratic. Some people end up in jail that should not be there but in a mental facility. A person should not be treated for a mental illness in a jail setting.

There being no further business, the meeting was adjourned at 4:17 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 5th Meeting of the 2012 Interim

October 18, 2012

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 18, 2012, at 10:00 AM, in room 105 of the Learning Resource Center at Midway College. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

<u>Members:</u> Senator Alice Forgy Kerr, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Denise Harper Angel, Ernie Harris, Jerry P. Rhoads, Kathy W. Stein, Katie Stine, and Jack Westwood; Representatives Regina Petrey Bunch, Will Coursey, C.B. Embry Jr., Bill Farmer, Richard Henderson, Dennis Horlander, Wade Hurt, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Terry Mills, Michael J. Nemes, Tanya Pullin, Tom Riner, and Jim Stewart III.

<u>Guests:</u> Dr. Robert L. Vogel, President, Midway College; Tom Bozarth, Mayor of Midway, Kentucky; Commissioner Sharon P. Clark, Department of Insurance; Randy Pepper, Actuary, Department of Insurance; Jim Gray, Mayor of Louisville, Kentucky; Margaret Handmaker, Director, Bloomberg Innovation Delivery Team for Louisville Mayor Greg Fischer.

<u>LRC Staff:</u> Carla Montgomery, Adanna Hydes, and Betsy Nickens.

Welcome to Midway College and Midway Kentucky

The minutes of the September 11, 2012 meeting were approved by voice vote. Dr. Robert L. Vogel, President, Midway College, and Mayor Tom Bozarth welcomed the committee and guests to the college campus and the city of Midway.

NCCI Loss Cost Filing for Workers' Compensation Approval

Commissioner Sharon P. Clark, Department of Insurance, presented an overview of the National Council on Compensation Insurance (NCCI) and its annual 2012 Loss Cost Filing, which was approved by the department and became effective October 1. NCCI is an advisory organization that serves as the oldest provider of workers' compensation and employee injury data and statistics in the nation. Medical claims continue to be a cost driver and represent 65 percent of workers' compensation claims.

Randy Pepper, Actuary, Department of Insurance, reviewed the Loss Cost Filing for the committee. For the seventh year, loss costs have continued to decrease resulting in a 42.2 percent decrease. In 2012, a decrease of 7.9 percent was reported for the 590 industrial classes used in Kentucky. These classes include manufacturing, office and clerical, contracting, and goods and services. For coal classes, underground mining costs decreased 8.9 percent and surface mining decreased 7.0 percent. Premiums have increased from $475.1 million (2010) to $507.1 million (2011), among the top five market share writers, Kentucky Employers' Mutual Insurance (KEMI), Liberty Mutual Group, AIG, Zurich Group, and Travelers Group.

The average loss cost nationwide is $1.34. The region (including Tennessee, Illinois, Indiana, and Virginia) is $1.56 based upon varying benefit levels for each state. Kentucky's average loss cost is $1.35, which ranks 18th among 38 states that have been reviewed by NCCI. Kentucky had the third largest decrease. The 2012 filing is based on the loss experience averages for policy years 2009 and 2010. The loss experience for 2010 will be included in the filing for 2013, so it is possible that Kentucky will experience an eighth year of decreases in loss costs.

In response to questions from Representative Clark, Mr. Pepper explained that the loss cost filing is advisory, and approximately 90 percent of carriers adopt the loss cost.

Cooperative Efforts and Initiatives Between Lexington and Louisville to Promote Economic Development

Lexington Mayor Jim Gray explained the Business Economic Advancement Movement (BEAM), an initiative formed by Louisville and Lexington to promote regional manufacturing and logistics. The initiative is supported by the Mayors' Project, which is a program created by Bloomberg Philanthropies to help mayors by using "Innovation Delivery Teams" to address ongoing challenges faced by cities. Following a meeting with the Brookings Institute, Louisville Mayor Greg Fischer approached Mayor Gray to discuss the institute's Metropolitan Business Plans that have been developed for other regions. Mayor Gray said while there has always been a healthy competition between the two cities, the program goal is simply about jobs— creating higher wages and higher value jobs for the future. The plan is based on market-driven analysis and planning. While studies conclude that record numbers of people are migrating to cities and productivity is growing, the plan will benefit surrounding regions as well.

The Brookings Institute's Metropolitan Business Plan focuses on core industries and strengthening through "lead initiatives" in terms of talent, investment, jobs, and training. The program has been successful in other cities, and includes renewed manufacturing in northeast Ohio, start-ups in the Minneapolis and St. Paul area, alternative energy initiatives in Puget Sound, Washington, and data driven decision-making across industries in central New York.

He noted that during the Mayors Summit, Bloomberg Philanthropies commended Lexington and Louisville for their collaborative efforts.

Mayor Gray said elements of the plan included the creation of a board and business community outreach. Chaired by Jim Host, the board consists of university leaders and business and manufacturing representatives. Through community outreach, it was determined that it is consistently difficult for manufactures to find qualified, skilled employees. Also, the perception of manufacturing jobs is problematic. Data collected suggested a focus on advanced manufacturing as a common industry cluster.

Margaret Handmaker, Director, Louisville Innovation Delivery Team, said the Bloomberg Foundation is interested in what is replicable in other cities. Ms. Handmaker discussed the importance of manufacturing. While job vacancies exist, the skill set employees need is not easily obtained. Manufacturing jobs have a 2:1 multiplier effect. Exports and innovation are the main components of the plan. The Kentucky Association of Manufacturing has joined the "Dream It Do It" program, which was created to rebrand manufacturing by making it more attractive as a career, and the Science, Technology, Engineering, and Manufacturing (STEM) Education Coalition has created "Project Lead the Way," which focuses on engineering and engineering technology education in middle and high schools. The Kentucky Community and Technical College System's (KCTCS) new strategic plan includes more manufacturing program. The manufacturing industry will see a major retirement wave over the next ten years.

Ms. Handmaker said other areas Louisville is focusing on through the Bloomberg initiative include reducing health care costs through restructuring emergence medical services, and converting vacant/abandoned properties to productive use. The city needs to reverse the negative effects of abandoned properties.

Representative McKee said the Lexington/Louisville partnership may be an example of how mayors of smaller cities can work together. Ms. Handmaker said rural communities have expressed interest in a new grant through the Brookings Institute for export initiatives to partner with other cities to develop the best possible strategy for growing exports.

Representative Henley said while there are many unemployed college graduates, he has yet to find one skilled laborer who does not have a job. KCTCS's programs are on target for developing a skilled workforce. They quickly developed a business plan to address the skilled labor shortage.

Responding to Senator Westwood's comments, Mayor Gray said a Brookings cluster analysis aligned northern Kentucky more with the Greater Cincinnati area.

Senator Westwood said it is important to educate children before they leave high school about the advantages of manufacturing careers. His Career Pathways bill will integrate project learning with regular coursework. He hopes the legislature provides appropriate funding for it to be effective. Mayor Gray said perception can be a problem among schools, noting that high schools often push more for university-based education.

Representative Carney said Senator Westwood's bill is important and should be funded. The state should put more focus on vocational careers as an option, and that most school staff direct students towards four-year institutions instead of vocational training.

Representative Gooch said refurbishing brown fields is important. The state should use what is available, affordable, and reliable. He is concerned about the $50 million received by the Sierra Club, which may undermine the state's efforts to grow its economy.

Responding to Representative Julie Adams' question, Ms. Handmaker explained that while various phases of the initiative are being refined, it is too soon to see results. Publicity about the export initiative has generated inquiries from manufacturers. Mayor Gray added that recent publicity of the partnership also has the state seeing results outside the manufacturing sector.

Representative Denham said he had the same concerns as Representative McKee regarding rural areas and issued an invitation for members to attend the upcoming Rural Issues Subcommittee meeting, which will include discussions about rural/urban migration. He said the current trend will see rural manufacturing plants become vacant.

There being no further business, the meeting adjourned at 11:55 AM.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 5th Meeting of the 2012 Interim

October 12, 2012

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 12, 2012, 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, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Dan "Malano" Seum, Kathy W. Stein, Damon Thayer, and Robin L. Webb; Representatives Tom Burch, Larry Clark, Wade Hurt, Joni L. Jenkins, Adam Koenig, Reginald Meeks, Michael J. Nemes, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Carl Rollins II, Arnold Simpson, and Susan Westrom.

Guests: Robert D. Vance, Secretary, Public Protection Cabinet; Tony Dehner, Commissioner, Department of Alcohol Beverage Control; Ambrose Wilson, IV, Commissioner, Jack Coleman, Deputy Commissioner, and Dawn Bellis, General Counsel, Department of Housing, Buildings and Construction.

LRC Staff: Tom Hewlett, Carrie Klaber, Michel Sanderson, Alan Jones, and Susan Cunningham.

Approval of minutes

A motion to approve the minutes from the September 14, 2012 meeting was made by Representative Burch and seconded by Senator Schickel. The motion carried by voice vote.

House Bill 215 Task Force on Electrical Inspection

Ambrose Wilson, IV, Commissioner of the Department of Housing, Buildings and Construction (HBC) told members that Jack Coleman, Deputy Commissioner had been named as chairman of the task force, and Dawn Bellis was legal counsel and chief advisor of the Task Force on Electrical Inspection. The task force was formed in response to HB 215 of the 2012 Regular Session. The task force has enabled the department to focus on the electrical component throughout the department.

Mr. Coleman provided an overview of the process the task force followed. He said that the group decided to keep the language as narrow as possible, using the language of HB 215 HCS1 as a starting point. The task force met three times. The first meeting was organizational. During the second meeting members began to evaluate the language of HB 215 HCS1 line by line, section by section, to make changes and additions to the bill. At the last meeting members discussed the changes and additions and voted to pass the new recommendations.

The members meeting on the bill included representatives of the Kentucky Association of Counties, the Kentucky League of Cities, International Association of Electrical Inspectors, open county inspectors, closed county inspectors, and Steve Willinghurst, who chairs the Electrical Advisory Committee, was also on the task force as a statewide member.

There are 275 certified electrical inspectors in Kentucky. HBC certifies the inspectors and any certified electrical inspector may conduct electrical inspections. There are two types of inspection programs. The non-compliant are "open" counties and the compliant are "closed" counties. This is a critical issue in HB 215. The non-compliant counties have a contractor that does not report to any local or state authority. These counties are not in compliance with Kentucky law. Complaint counties have hired or have a contract with an electrical inspector. In these counties, contractors can only hire an electrical inspector designated for that jurisdiction. These inspectors report to local appointing authorities and these counties are compliant with existing Kentucky law.

Establishment of an "Electrical Division" in the department is considered a key element. The division would not require that a certified inspector become an employee of the Commonwealth or of HBC. Rather the Electrical Division would provide oversight of inspections, assistance to local programs, flexibility of resources and support, standardized electrical inspection protocol, and standardized reporting forms.

The issue of interpretation of the National Electrical Code (NEC) to increase compliance with licensure requirements was also discussed. A single interpretation of the code would aid electricians and electrical contractors working in multiple jurisdictions. It also provides support and education to local inspectors and will assist in investigations for disciplinary actions. A single interpretation of the NEC would be enhanced by having an Electrical Division within the department. Consumer protection is increased when consistency in electrical inspections is provided.

Electrical inspectors will register with the Electrical Division. They will be linked to their jurisdictions to allow the division to verify required electrical licensure. Additionally, inspectors will be reporting violations to the department to provide statewide information on violators.

The Electrical Division was originally in the Division of Fire Prevention. It was moved to Building Code Enforcement in HBC. The proposed legislation will create the separate Electrical Division. This is critical going forward with compliance and consistency.

Dawn Bellis went over the specific changes made by the task force. She told members the report by the task force was unanimously approved at the final meeting. The first change made for clarification and consistency was to change electrical wiring to electrical system. The second recommendation is addition of proof of approvals prior to the final electrical inspection. Another recommendation called for adding the language "contracted, nor employed" for consistency and clarity.

The task force also recommended a specific time limitation for approval once a local jurisdiction provided the department documentation for authorization of a local electrical program. A local jurisdiction can also ask the department to step in and take over inspections if the inspector has moved from the area or if there is not a certified inspector in that area.

The task force also recommends providing protocol for conducting necessary electrical repairs outside of business hours. A business or homeowner could have an emergency arise on a weekend, night, or other times an inspector might not be available. This recommendation would provide that the contractor could get a permit after the emergency work was performed. This language mirrors language in other departments such as plumbing and HVAC.

The task force also recommends clarification of the language concerning work that homeowners can do on their personal residences. There is an exception for homeowners who do their own work. New language would exempt homeowners who do the work themselves and have not had a similar exemption on another property within the last five years.

The task force said that by standardizing forms for inspection, some language in HB 215 became redundant and recommended that repeats be struck. Additionally, recognizing that different jurisdictions have different costs for inspections, the task force recommended the department, with the advice of the Electrical Advisory Committee, promulgate an administrative regulation capping a maximum fee to be charged for electrical inspection in local programs. The fee for each jurisdiction is to be established by the jurisdiction rather than being mandated statewide. This is different than other programs in HBC.

Because the electrical inspections were moved from the Office of the State Fire Marshal to Building Codes Enforcement there were unforeseen consequences that resulted in taking the electrical inspectors ability to pull electrical service where imminent danger is present. While the ability was lost when the electrical inspectors were moved from the State Fire Marshal's office, the ability to pull an electrical service is restored by the language the task force is proposing.

Finally, the task force recommends that KRS 132.815 be repealed in its entirety. This removes the requirement that electrical inspectors file a report monthly with the Department of Revenue. Electrical inspectors are required to file reports of service annually. The task force felt that monthly reports were too burdensome and advised repealing the entire section. The Department of Revenue was contacted for its input; however, it has yet to respond.

In response to a question from Senator Schickel, Ms. Bellis said electrical inspectors have not had the authority to pull an electrical service since 2010.

In response to a question from Senator Stein, Ms. Bellis said that because the Senator is a homeowner and is preparing to do the electrical work on her own home, she is allowed to perform that electrical work without an inspection.

In response to a question from Representative Meeks, Ms. Bellis said the task force contacted the Department of Revenue about the reporting requirement three weeks ago.

Senator Schickel and Senator Higdon commended the department on the quick response they receive when they have call HBC with constituent concerns.

Representative Clark commented that a standardized electrical inspection system was needed. In rural areas inspectors who do not have a contract with a municipality or the state will bill for an inspection each time they enter a home, and the accumulated cost can become quite high.

Senator Buford commented that there were several areas in the proposed language that the Senate would change or reject. He offered to work with the eventual sponsor of the bill on corrections.

In response to a question from Representative Owens, Ms. Bellis said the department feels that the current information on open and closed counties is not accurate, therefore the task force is gathering documentation on the number of local governments that do not have a contract for electrical inspector. State inspectors only inspect state- owned and state-leased properties.

Governor's Task Force on the Study of Kentucky's Alcoholic Beverage Control Laws

Robert D. Vance, Secretary of the Public Protection Cabinet, chairman of the Task Force on the Study of Kentucky's Alcoholic Beverage Control Laws, said that on July 18, 2012, the Governor executed an Executive Order creating the task force. On August 14, the Governor named 22 members to the task force. He included two members from Senate leadership, two members from House leadership, a representative from Mothers Against Drunk Driving, a member of the Kentucky Liquor Retail Coalition, the Kentucky Restaurant Association, a member of Wine and Spirits Wholesalers of Kentucky Inc., Kentucky Distillers Association, Kentucky Vineyard Society, Kentucky Beer Wholesalers Association, Kentucky Malt Beverage Council, Licensed Micro-Brewery's, the Kentucky Association of Counties, Kentucky League of Cities, Licensed Large Brewery's, Kentucky Retail Federation, and Larry Bond representing the Governor's Office, along with three members from the Department of Alcoholic Beverage Control.

In Kentucky, there are over 80 types of licenses relating to alcohol production or sales and over 13,000 licensees. Kentucky has 82 counties with some type of alcohol sales. Five years ago there were only 53 counties that had some type of alcohol sales. The Executive Order identified problems about which the task force was to build a consensus. Problems of particular importance were; the number and types of licenses, the effectiveness of local election laws, and the enhancement of public safety. There is also concern about helping licensees. The task force wanted potential changes in alcohol laws to be revenue neutral. Also, the task force did not want to change any benefits for the licensees.

The task force established three committees to review the three main concerns. Stephanie Stumbo, the Administrator of Malt Beverages, was appointed chairman of the committee for the number and type of licenses. Tony Dehner, Commissioner of Alcoholic Beverage Control, is chairman of the committee to study the effectiveness of local option election laws. Danny Reed, the Administrator of Distilled Spirits, is chairman of the enhancement of public safety committee.

The first task force meeting was August 16, 2012. There were two subsequent committee meetings and on September 26, 2012 the task force received a report from the committees. Each member was able to participate in any one or all three committees. Nineteen of the 22 members of the task force are on the licensing committee. There are an additional 51 participants who are interested parties wanting to have a voice in the review process. The chairs of the committee expressed a need for additional study and asked for volunteers. These volunteers study pertinent information from other states and bring reports back to the committee.

Public forums have been scheduled in Northern Kentucky, Eastern Kentucky and Western Kentucky. The forums are to invite the public to share information. The meetings are scheduled from 6:00 – 7:30 p.m. on October 22, at the Center for Rural Development in Somerset, on October 23 at Northern Kentucky University in Newport, and on October 25 at the Community College in Madisonville. The feedback from these meetings will go in the report from the full task force.

On December 13, all committees will give their recommendations to the full task force. A final report, including items that the task force could not reach a consensus on, will be voted on and that report will be submitted to the governor on January 15. All the task force information, including all task force and committee meeting minutes can be found on the Public Protection website.

Secretary Vance concluded by saying that the purpose of the task force was to "clean up" alcohol statutes. He noted that the committee wanted to eliminate alcohol law that is not enforceable and to eliminate unnecessary licenses or licenses that duplicate each other.

Representative Keene commented that Secretary Vance's approach to the licensees being viewed at the customer and streamlining the license process was a very encouraging sign.

In response to a question from Representative Owens, Secretary Vance said the community forums were for the purpose of gathering information from local people with concerns for their areas.

In response to a question from Representative Meeks, Secretary Vance said the forums are open and the task force encourages all groups to come to these meetings.

Senator Higdon, a member of the task force, commented that the task force was not changing a large part of legislation, but was cleaning up language. There would not be anything taken away from licensees. By the same token, there would not be anything added to the language in the alcohol statutes. The task force process has been effective and the recommendations will improve the alcohol laws.

In response to a question from Representative Simpson, Secretary Vance said the Kentucky League of Cities is studying the issue of classes of cities regarding alcohol sales and use.

In response to a question from Representative Simpson, Commissioner Tony Dehner said the task force was not charged with changing laws and that sales of alcohol on election days would require creation of a new law.

Senator Buford commented that he felt it was important to have a town forum in Jefferson County. Senator Webb added that the task force was welcome to come east of Interstate 75.

In response to a question from Senator Seum, Secretary Vance said as an example of an unenforceable alcohol law that there is one law that says if a precinct in a county was having a local option election to go "wet" or "dry," every business that sells alcohol in that county must be closed. However, there are two separate Attorney General opinions that say that subsequent laws passed by the General Assembly conflict with the law requiring closure. Therefore the first law was essentially unenforceable and should be removed.

In response to a question from Representative Meeks, Secretary Vance said the preliminary investigation shows that split precincts are an area outside the scope of the agency's authority.

Representative Keene reminded members that the next meeting of the IJC on Licensing and Occupations would be November 9, 2012, at 10:00 AM, in room 129 of the Annex.

There being no further business to

come before the committee the meeting was adjourned at 11:08 AM.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 3rd Meeting of the 2012 Interim

October 24, 2012

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 24, 2012, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Walter Blevins Jr., Jimmy Higdon, R.J. Palmer II, John Schickel, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Julie Raque Adams, Ron Crimm, Mike Denham, Ted Edmonds, Stan Lee, Tom McKee, Michael Meredith, Arnold Simpson, and Rita Smart.

Guests: Melissa Howell, Kentucky Clean Fuels Coalition; Vince Lang, Kentucky County Judge/Executives Association; Bert May, Kentucky League of Cities; Richard Tanner, Kentucky Magistrates and Commissioners Association; Clyde Caudill, Jefferson County Public Schools; Dan Walton, Labor Cabinet; Kathi Marshall, Office of State Budget Director; Bryan Alvey, Kentucky Farm Bureau; and Sara McGowan, Louisville Metro Government.

LRC Staff: Mark Mitchell, John Ryan, Jessica Causey, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Crimm and a second by Representative McKee, the minutes of the August 22, 2012 meeting were approved.

Clean Fuels Technology for Local Governments

Ms. Melissa Howell, Executive Director of the Kentucky Clean Fuels Coalition (KCFC), testified that KCFC is a non-profit organization that has been in existence for 19 years. KCFC works to provide its members and fleet, fuel, and transportation professionals with the latest industry information.

Clean fuels projects include hybrid-school bus program, hybrid-electric and plug-in electric initiatives, ethanol/E85 and biodiesel production and use, natural gas refueling, and national park initiative using natural gas. KCFC is facilitating projects all over the state. The Jefferson County/Louisville project has 50 hybrid school buses and TARC hybrid transit buses. Biodiesel is used by UPS. Five plug-in electric transit buses are on order. There are seven plug-in electric charging stations at the University of Louisville, which are not for public use. Thornton's has E85 stations. The waste management refueling site and Wesport LD/Ford Truck Conversions uses natural gas.

The western Kentucky project area has a hybrid school bus program, E85 stations and ethanol production facility, biodiesel use by the Kentucky Soybean Board and Farmers, and Freedom Waste Natural Gas. Mammoth Cave is the first national park in the country to use alternative fuels/advanced technologies in all vehicles and equipment.

The northern Kentucky project area includes hybrid school buses, biodiesel production by Griffin, biodiesel use by Carmeuse Lime Mines, E85 refueling stations, and clean energy natural gas refueling.

The eastern Kentucky project area has a hybrid school bus program that has doubled bus mileage, and has E85 refueling stations. Somerset has natural gas refueling and the first electric truck.

Regarding Hybrid Horsepower for Kentucky Schools, in December of 2010, $12.8 million was awarded for the purchase of 215 hybrid electric school buses. There are 170 operational buses with 157 others on order. Fuel savings averages 34 percent. Ms. Howell urged committee members to talk to their school districts about using hybrid electric school buses. The equipment works, and there is data to provide it. Kentucky has the largest number of hybrid electric school buses in the nation.

KCFC's Green Fleets of the Bluegrass Program was launched in 2011 and aims to improve the environmental performance of vehicle fleets by reducing petroleum fuel use. Legislators were urged to talk to their municipalities about this program.

Legislation would be the most beneficial for the natural gas multi-state collaborative. The General Assembly is requested to ask about this because Kentucky is not talking about it. A natural gas workshop was held on July 3. Representative Riggs was recognized for having a municipality that participates in the use of natural gas for alternative fuel sources.

Representative Crimm commented that he only uses E85 in his vehicle and saves about 60 cents per gallon.

In response to a question from Senator Seum, Ms. Howell replied that the Hybrid Horsepower for Kentucky Schools project would not be possible without $12.8 million from the federal government. Senator Seum commented that he was concerned that lost of federal money would mean the end of the program. Ms. Howell agreed.

In response to a question from Representative Denham, Ms. Howell stated that she would have to refer Representative Denham to the corn growers regarding the concern that ethanol raises the cost of feed for livestock and the cost of food in stores.

Representative McKee commented that one of KCFC's members, Griffin Industries, is making alternative fuel from spent cooking oil. There is an ongoing concern with food growers.

In response to a question from Representative Meredith, Ms. Howell answered that she has not seen statewide damage to marinas from ethanol statewide, but has seen some evidence of it.

In response to a question from Representative Lee, Ms. Howell replied that she did not know the cost per gallon to produce E85 but that there needs to be a drop in prices to offset the reduced mileage.

In response to another question from Representative Lee, Ms. Howell stated that while one federal subsidy ends in December, the federal subsidy was 53 cents per gallon for ethanol, and that could contribute to its cost effectiveness.

Interlocal Agreements

Representative Riggs told members that he is going to sponsor legislation in the 2013 Session that would require interlocal agreement training for local officials. A working draft was included in the members' folders for their review. Some examples of interlocal agreements include the Hart County/Simpson County/Kentucky State Police emergency enhanced 911 system; the Washington County/Marion County animal shelter agreement; and the Boyle County/Mercer County Jail Interlocal Agreement. Local officials should be encouraged to use interlocal agreements and understand their use. Members were asked to get back with Representative Riggs on any changes they might have regarding the bill draft.

In response to a question from Representative Simpson, Representative Riggs replied that pages 4 and 5 of the bill draft discuss the training requirement on the subject of interlocal agreements.

There being no further business, the meeting was adjourned at 11:15 a.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 4th Meeting of the 2012 Interim

October 24, 2012

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 24, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins Jr., Alice Forgy Kerr, Gerald Neal, R. J. Palmer II, and Dorsey Ridley; Representatives Linda Belcher, Kevin Bratcher, Dwight Butler, Larry Clark, Tim Couch, Will Coursey, Danny Ford, Derrick Graham, Mike Harmon, Melvin Henley, Jimmie Lee, Mary Lou Marzian, Brad Montell, Lonnie Napier, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Carl Rollins II, Bart Rowland, Steven Rudy, Sal Santoro, John Tilley, Tommy Turner, and Brent Yonts.

Guests: Anthony Wilhoit and John Schaaf, Kentucky Legislative Ethics Commission; William Thielen and Jennifer Jones, Kentucky Retirement Systems.

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

Approval of Minutes

The minutes of the September 27 meeting were approved without objection, upon motion by Representative Rudy.

Recognition of Guests and Staff

Senator Thayer recognized and commended LRC staffer Bryanna Carroll, who is leaving LRC for a position with the Kentucky League of Cities. Representative Ford introduced his guest in the audience, David Meade, successor to Representative Ford's uncontested District 80 seat in January 2013.

Recommended Changes to Code of Legislative Ethics

Guest speakers from the Legislative Ethics Commission were Judge Anthony Wilhoit, Executive Director, and John Schaaf, Counsel. The Commission's June 22, 2012, submission of recommendations to LRC noted that most were included in a longer list submitted in prior years but that this year the Commission is submitting only five recommendations that Commission members agree are the most important ethics law changes for consideration by the General Assembly.

Recommendation #1: *Repeal the provision allowing each lobbyist and employer to spend up to $100 annually on food and beverages for each legislator and his or her immediate family, and prohibit lobbyists and their employers from paying for out-of-state travel, food, or lodging expenses for legislators or candidates.* Judge Wilhoit said the amount that lobbyists and their employers spend on food and beverages for individual legislators does not appear to be an ethical problem. Last year the total spent was only about $300—in some years less than $100. Because of reporting requirements, this provision has become an administrative problem not only for the Commission but also for legislators, lobbyists and employers of lobbyists. In lieu, the Commission proposes a "no cup of coffee" approach to prohibit lobbyists and their employers from paying for food and beverages for individual legislators.

As a matter of public perception, lobbyists and their employers should be prohibited from paying for out-of-state travel, food, or lodging expenses for both legislators and candidates for legislative office. This type of spending amounted to less than $4,000 during the past year, but the Commission feels that legislators' travel expenses should be borne by taxpayer rather than lobbyists.

Responding to questions from Representative Riner, Judge Wilhoit said this recommendation would not affect the ability of lobbyists and their employers to sponsor events for groups of legislators. Mr. Schaaf said that thus far in 2012 about $135,000 has been spent on events to which all legislators or committees of the General Assembly are invited. The usual annual total is approximately $180,000-$190,000.

Judge Wilhoit said that last year over $15 million was spent on lobbying; the amount this year, to date, is $13 million. Typically, 90 percent of this money is used to pay lobbyists' salaries. Mr. Schaaf explained that money spent on lobbying has increased in recent years because there are more lobbyists, and they generally are spending more time on lobbying than in past years.

Recommendation #2: *Treat candidates in the same manner as legislators by limiting the interaction between lobbyists and candidates who have filed to run for election to the Kentucky General Assembly.* When asked by Representative Pullin, Judge Wilhoit said the Commission recommends that legislative candidates who have won election but not yet assumed office should be treated the same as members of the General Assembly. Responding to Senator Thayer, he clarified that this recommendation pertains to giving "anything of value," not campaign contributions.

Recommendation #3: *Prohibit employers of lobbyists and political action committees from making a campaign contribution to a legislative candidate or a legislator during a regular session of the General Assembly. Allow a candidate or legislator to return such a contribution within 30 days after the contribution is required to be reported to the Registry of Election Finance. Prohibit lobbyists from directly soliciting contributions for an election campaign of a legislator or legislative candidate.* Mr. Schaaf said this recommendation would not only improve public perception but also protect legislators from unintended consequences. The intent of the Commission is to be proactive and address potential problems before they arise. When asked by Representative Belcher, Mr. Schaaf said this recommendation would not pertain to special sessions. Responding to Representative Marzian, he explained that the Commission's interpretation of this recommendation is that it would apply to caucus campaign committees, in the absence of statutory language to exempt them. She agreed with this interpretation because it would help avoid the perception of potential conflict of interest during regular sessions.

When Senator Thayer asked what other states do regarding fundraising during legislative sessions, Mr. Schaaf said most states do not prohibit lobbyist contributions year round, as Kentucky does. One of the cornerstones of Kentucky's ethics law is the prohibition against lobbyists donating directly to legislators. Some states strictly prohibit fundraising during sessions from anyone—not just lobbyists and their employers—and some states do not allow raising money from lobbyists during a session.

Representative Rudy asked about fundraising for legislators who are candidates in special elections that occur during legislative sessions. Mr. Schaaf said that proposed legislation could include an exemption for special elections during a regular session. He also noted that the recommended prohibition only applies to employers of lobbyists, since members of the General assembly cannot raise money from lobbyists any time. Answering questions from Senator Ridley, Mr. Schaaf explained that the recommendation, as written, only applies to entities that are registered to lobby; it would not apply to individuals who work for or are affiliated with a group that employs a lobbyist. Fundraising from persons without a lobbyist connection would still be allowed during sessions.

Representative Graham questioned whether this recommendation would place legislators whose seats are contested in May primaries at a disadvantage. Mr. Schaaf said he did not think it would have a huge impact. Fundraising could still occur during a session—though not from lobbyists or their employers or political action committees. The restriction would also apply to the legislator's opponent.

Responding to Senator Palmer's questions, Mr. Schaaf clarified that "employer" of a lobbyist means the organization/entity that is registered to lobby but not an official of that organization.

Recommendation #4: *Require reporting of the cost of advertising which appears during a session of the General Assembly, and which supports or opposes legislation, if the cost is paid by an employer of legislative agents or a person affiliated with an employer.* Mr. Schaaf said the Consumer Health Care Products Association, for example, has reported spending about $1 million on lobbying since 2010. It appears that that entity, however, has spent even more on advertising relating to particular pieces of legislation. This is another form of lobbying that is expected to grow. The Commission feels that since regular lobbying—direct contact with legislators—is reportable, lobbying that encourages contact with legislators regarding specific bills should also be reportable.

Recommendation #5: *Authorize the Legislative Ethics Commission to dismiss a complaint without prejudice if the complaint or preliminary inquiry is publicly disclosed by the complainant, or the complainant comments publicly about the complaint.* Mr. Schaaf explained that this recommendation would address complaints that are politically motivated. It would not prohibit such complaints or preclude the complainant from refiling later.

There were no further questions. The co-chairs thanked the Commission for bringing the recommendations and commended the decision to reduce the number being proposed for the 2013 Regular Session. Mr. Schaaf complimented the General Assembly for its ethics initiatives.

Administrative Regulations of Kentucky Retirement Systems (KRS)

Present from the agency were William Thielen, Executive Director, and Jennifer Jones, Interim General Counsel. On October 3, 2012, the following KRS administrative regulations were referred to the Committee for review: 105 KAR 1:400 & E (Federal taxation limitation year); 105 KAR 1:420 [401(h) account established under 26 USC 401(h)]; and 105 KAR 1:430 (General compliance with federal tax laws). The regulations were reviewed and amended by the Administrative Regulation Review Subcommitee (ARRS) on September 17, 2012.

Mr. Thielen explained that the regulations were amended to comply with various federal laws and Internal Revenue Service (IRS) requirements relating to determination letters that establish tax-qualified status for the three KRS plans—KERS, CERS, and SPRS. There were no questions, and the Committee took no action on the regulations. Senator Thayer advised that the Committee has fulfilled its statutory role by reviewing the regulations.

Subcommittee Report – Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Senator Thayer, Co-Chair of the Task Force, read a brief subcommittee report of the October 23 meeting.

Adjournment

With business concluded, the meeting adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Minutes of the 2nd Meeting of the 2012 Interim

October 23, 2012

Call to Order and Roll Call

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, October 23, 2012, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., R.J. Palmer II, Dorsey Ridley, John Schickel; Representatives Mike Cherry, Derrick Graham, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, Bart Rowland, and John Will Stacy.

Guests: Craig C. Dilger, Registry Board Chairman, and Emily Dennis, General Counsel, Kentucky Registry of Election Finance; James Lewis, Leslie County Clerk & Kentucky County Clerks Association Elections Committee Chair, and Julie Barr, Oldham County Clerk.

LRC Staff: Judy Fritz, Greg Woosley, Kevin Devlin, and Terisa Roland.

Approval of Minutes

The minutes of the August 28, 2012 meeting were approved without objection, upon motion by Senator Palmer and second by Representative Owens.

Campaign Finance Discussion for 2013 Regular Session Initiatives

Craig Dilger and Emily Dennis of the Kentucky Registry of Election Finance began the meeting agenda with a discussion of the potential initiatives for the 2013 Regular Session.

The first topic covered was changing campaign finance reporting requirements from the current two tiered system to a single dollar amount threshold that would trigger reporting requirements. Mr. Dilger testified that the current "twin threshold" system exempts candidates that raise or spend less than $1,000 from filing any reports; that candidates that raise or spend between $1,000 and $3,000 are required to file one report after the election; and that candidates that raise or spend greater than $3,000 are required to make all pre- and post-election reports. Mr. Dilger explained that this system is confusing for candidates and results in the Registry expending a great amount of resources to educate candidates on this issue. He also noted that the lower dollar amount single reports do not add a great deal to the transparency goals of campaign finance reporting, but that this requirement occasionally causes candidates running small campaigns to get into trouble for their failure to understand and comply with the requirement. Mr. Dilger and Ms. Dennis, on behalf of the Registry, recommended that the Task Force members consider adopting a single dollar amount threshold that would exempt candidates below the threshold from filing any reports and require full reporting for any candidates that exceed the threshold. Mr. Dilger did not have a firm recommendation for the appropriate dollar amount threshold, but he noted that the $1,000 amount was likely too low given the cost of modern campaigns. The presenters and the Task Force members discussed a range for the threshold from the current $3,000 amount to as high as $10,000 with several members expressing concern over no reports being required if the amount was much higher than in the $3,000 to $5,000 range. Finally, the Registry stated that they were studying how different levels would impact the number of reports that are being filed and noted that a prior campaign finance task force had recommended a single $5,000 threshold.

The next issue discussed by Mr. Dilger and Ms. Dennis was increasing the individual contribution limit per election. Mr. Dilger noted that Kentucky law currently has a $1,000 per election individual contribution limit, but that the Registry has researched contribution limits in several surrounding states and noticed that most limits are higher –

and some significantly higher – than in Kentucky. Senator Thayer stated that a good course for Kentucky could be to raise the contribution limit to conform to the federal level and index the dollar amount to inflation, as well as allow married couples to write a single check for both individual's limits. The Registry did not have a specific recommendation, but Mr. Dilger did note that setting the limit to conform to federal campaign finance law was likely a good proposal to consider from the Registry's perspective.

Several members of the Task Force posed questions and voiced their opinions and concerns on both issues.

Local Option Elections on Primary or Regular Election Days

The second topic on the agenda concerned the timing of local option elections, and the Task Force heard testimony from Leslie County Clerk, James Lewis, and Oldham County Clerk, Julie Barr on this topic. The clerks began by noting that current Kentucky law requires local option elections to be held on days other than a primary or regular election day, and that this requirement is costly for counties. Ms. Barr testified that Oldham County has had three local option elections in the past fifteen months at a total cost of more than $17,000, and that one of these elections had a 3.6% turnout – 56 votes cast – and cost the county $3,399.92.

Ms. Barr noted that SB 179 in the 2012 Regular Session would have required local option elections to be held on either a primary or regular election day, and both she and Mr. Lewis advocated for that cost-saving statutory change. Copies of SB 179 were passed out in the meeting to the Task Force members for their consideration.

Several members of the Task Force posed questions on SB 179 and voiced their opinions and concerns. Of particular concern was the possibility that a community would desire to have a local option election vote in a year in which no primary or regular election was scheduled, and the county would consequently be forced to wait until the following year to hold the election. The clerks agreed that this could be a concern and had no objection to a bill that would address the issue with a contingency to account for years with no scheduled elections.

A copy of the meeting summarizing these topics can be found in the Legislative Research Commission library.

The business concluded, and the meeting adjourned at 2:15 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting of the 2012 Interim

October 2, 2012

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 2, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Other Legislators in Attendance: Representative Dennis Horlander.

Guests: Monty Boyd, President & CEO, Whayne Supply Company and Chairman, Kentuckians for Better Transportation; Dr. Joe Crabtree, Director, Kentucky Transportation Center, University of Kentucky; Tom Zawacki, Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet; Tom Napier, Executive Advisor, State Highway Engineers Office, Kentucky Transportation Cabinet; Nick Melton, Vaughn & Melton; John Burke, Cumberland Gap Tunnel Authority; Morgain Sprague, Legal Counsel, Kentucky State Police.

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

Approval of Minutes

Representative Collins made a motion to approve the minutes from the September 4, 2012 meeting as submitted. The motion was seconded by Representative Short and adopted by voice vote.

Report on State's Support of Non-Highway Modes of Transportation

Monty Boyd, President & CEO, Whayne Supply Company and Chairman, Kentuckians for Better Transportation (KBT) explained that KBT focuses on improving all five modes of transportation: air, public transit, rail, water transportation, and highways and bridges.

Dr. Joe Crabtree, Director, Kentucky Transportation Center, University of Kentucky started by giving an overview of the study "States' Support of Non-Highway Modes of Transportation: Investigation and Synthesis" that KTC facilitated. The study began because Kentucky has an extensive multi-modal transportation system that consists of much more than just highways. Compared to highways, other transportation modes get limited state support.

Dr. Crabtree stressed that the study did not develop any recommendations, just supplied a comparison of the funding for these four modes of transportation in Kentucky against the selected states. Of the seven surrounding states, three, including Kentucky, have constitutional restrictions on how transportation related revenues may be spent and Indiana is the only state that has statutory restrictions.

He explained that within Kentucky there are 57 airports eligible to receive financial support from the Transportation Cabinet and Federal Aviation Administration. In recent years, trust fund revenues have been redirected to the Kentucky General Fund. These funds, which amount to approximately $10 million, are to be used for the development, rehabilitation and maintenance of publicly owned or operated aviation facilities. Kentucky also collects approximately $2 million in ad valorum property taxes from commercial aviation carriers, but these funds also go to the general fund. The primary source of funding for planning and development for public use airports is the Federal Airport Improvement Program. Federal funds are available as a 75 percent federal, 25 percent state and local match for large airports. For small airports, the federal share is 95 percent with only a 5 percent state match required (half local and half state).

Dr. Crabtree stated that during the study, KTC took each comparison state for each mode of non-highway transportation and compared the structures in Kentucky and the support that the state can provide in comparison with the select target states. All permit funds accrued in the Aviation Economic Development Fund are used to fund aviation activities as set forth in KRS 183.525(5) rather than diverting to the general fund. Another opportunity that could help the aviation industry in Kentucky would be to raise or eliminate the cap on jet fuel tax.

He explained that in regards to public transportation, Kentucky has three urbanized area systems, numerous smaller urban area systems and rural services. Public transportation is regulated by the Kentucky Transportation Cabinet's Office of Transportation Delivery. For the public transit companies, the major source of funding is through the Federal Transit Administration. The report identifies several opportunities to give public transportation a chance to grow within Kentucky, including providing state funding for operating assistance, distributing some of all state funds by formula, providing reimbursement programs to support reduced or eliminated fares for elderly and/or disabled persons, generating or allocating sales tax revenues for public transportation, and dedicating state lottery revenues for public transportation services. There are also opportunities to establish transportation financing programs for large capital transit projects. Kentucky could also utilize innovative federal financing programs, such as the Grant Anticipation Notes (GANS) program and the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, to help secure funding for large capital transit projects.

In response to Senator Harris, Stan Lampe, Kentuckians for Better Transportation, stated that the TARC public transportation system in Louisville receives less than 10 percent revenue from fares.

In response to Representative Wuchner, Dr. Crabtree stated that grants for airports are administered within the Department of Aviation, Transportation Cabinet.

In response to Representative Belcher, Dr. Crabtree stated that it is his understanding that the TIFIA program is more of a loan program. He explained that to get the funding an entity would have to prove a business case that it could pay back the loan.

In Kentucky, rail transportation freight rail service is provided by five Class I, one regional and seven local railroads. The industry pays ad valorum property and corporate income taxes as a revenue source for Kentucky. Opportunities to improve rail transportation in Kentucky were to secure a dedicated source of revenue, establish a state infrastructure bank in order to fund transportation projects of all modes, create a passenger rail trust fund using federal funds for passenger and high-speed rail, offer tax incentives which can be applied to Class I railroads, seek public-private partnerships with the federal government, other states and privately owned railroads. He explained that updating the state rail plan with short-term and long-term plans for the development of rail infrastructure in the state would be beneficial, as well as, identifying potential partners for freight and passenger initiatives by taking a more active role in interstate associations.

Dr. Crabtree said that Kentucky has over 1,250 miles of navigable waterways, with seven active public and over 300 private ports. The waterways are administered by the Kentucky Transportation Cabinet's Division of Planning. The United States Army Corps of Engineers is responsible for all of the lock and dam infrastructure. In 2010, the General Assembly enacted a Water Transportation Advisory Board, which provides guidance to the Governor's Office, the General Assembly, the Kentucky Transportation Cabinet, and the Cabinet for Economic Development. Also in 2010, the General Assembly authorized two trust funds, one for capital improvements and one for marketing assistance, but did not appropriate money for those funds.

Within the waterway system the KTC found several opportunities to boost waterways in Kentucky. One strategy is to establish a dedicated water transportation or maritime unit in the state's transportation agency. Alternatively, one state has opted to situate its waterways program in the economic development office. Kentucky could also make constitutional or statutory changes to provide support and funding for infrastructure improvements and waterway transport using fuel tax revenues, or dedicate state funding for capital, infrastructure improvements, and marketing projects and inland ports.

Dr. Crabtree closed his presentation by explaining that numerous other states, including adjacent states, were reviewed to identify how they support air, public transportation, rail and waterways. Kentucky's non-highway modes receive somewhat limited state support and modal lists of opportunities generally focus on funding and financial support.

Implementation of 2012 Regular Session House Bill 221, Veteran Designation on Drivers License

Tom Zawacki, Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet started by informing the committee that the state is printing drivers licenses with the veteran's designation on them. Due to programming issues, the Cabinet had to delay the printing of the veteran's designation and has been effective as of September 24, 2012. And, due to these programming issues, veterans who paid to renew their driver's licenses between July 12 (effective date of House Bill 221) and September 24 without the designation will be able to return to the clerk's office and get a reprinted license with the designation free of charge.

Procedures for Hazardous Materials Vehicles Traveling through the Cumberland Gap Tunnel

Nick Melton, Vaughn and Melton Engineers, explained that Vaughn and Melton began providing construction, engineering, and inspection services for the Federal Highway Administration in 1985 in the building of the Cumberland Gap Tunnel. The tunnel, which opened to traffic in October 1996, was built with 100 percent federal funding. By an agreement with Tennessee and Kentucky, the states were to manage and operate and maintain the tunnel upon completion. Prior to completion of the tunnel, there was a request to operate the tunnel by the Transportation Cabinet as designated by the bi-state agreement as the lead state.

John Burke, Cumberland Gap Tunnel Authority explained that the Cumberland Gap Tunnel is located within the Cumberland Gap National Historic Park, between Middlesburg, Kentucky and Cumberland Gap, Tennessee. Each tunnel is 4,600 feet long, and there is one tunnel one for northbound traffic and one tunnel for southbound traffic. Each tunnel has two lanes of traffic that travel each direction. The Cumberland Gap Tunnel Authority has 36 employees to cover the 24 hour 7 day a week operation. All employees are cross-trained to be emergency medical technicians and firefighters at the hazardous materials operations level, and are trained in as to vehicle extrication and OSHA regulations. Maintenance on the tunnel is demand based maintenance and preventive in nature. The authority responds to any incident in any general area of the tunnel and covers small incidents up to major incidents.

Mr. Burke stated that, with hazardous materials escorts, a truck hauling any type of hazardous materials must be inspected before reaching the tunnel. After the inspection is completed, traffic will be stopped in both directions and the truck hauling the hazardous materials will lead the escort vehicle through the tunnel. After the truck passes through the tunnel, traffic resumes. In a week period, there are approximately 550-600 escorts. Seventy percent are local carriers that travel to Knoxville, Tennessee to get loads of fuel to bring to Kentucky for storage.

In response to Senator Harris, Mr. Melton explained that there are two separate tunnels, but every 600 feet there are cross-passages to allow traffic to be transferred to the other tunnel if necessary.

In response to Senator Harris, Mr. Melton explained that explosive materials are not allowed in or around the tunnels.

In response to Representative Stewart, Mr. Burke stated that there is a tunnel in Colorado that allows hazardous materials through the tunnel during the winter months at the top of each hour.

Consideration of Administrative Regulation 502 KAR 1:120 & E

Senator Harris gave a brief description of the regulation. No objection was raised to the proposed Administrative Regulation.

Senator Harris informed the committee that the next committee meeting will be November 13, 2012 at 10:00 a.m.

With no further business before the committee, the meeting adjourned at 2:30 p.m.

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

Minutes of the 5th Meeting of the 2012 Interim

October 11, 2012

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 11, 2012, at 1:30 PM, in Richmond, Kentucky at the Blue Grass Army Depot (BGAD). Representative Tanya Pullin, 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 Dennis Parrett, and Kathy W. Stein; Representatives Royce W. Adams, Regina Petrey Bunch, Tom Burch, Dwight D. Butler, Leslie Combs, Tim Couch, Ron Crimm, Bill Farmer, Terry Mills, Tim Moore, Tom Riner, and Rita Smart.

Guests: Col. Brian Rogers, Commanding Officer, Samuel Hudson, Public Affairs Officer, Thomas Turning, Operations Officer, Keith Goetz, and Gary Mullins, BGAD; Bobby Smalley, BGAD Union; and Pat Hoskins, Madison County Transportation Cabinet.

LRC Staff: Erica Warren, Kristopher Shera, and Rhonda Schierer.

Resolutions

Chair Pullin read a resolution in memory and honor of Bryant Stiles. Representative Burch moved to adopt the resolution. Representative Farmer seconded the motion, and the motion was adopted. Chair Pullin read a resolution in memory and honor of Mia Kylee Simmerman. Representative Combs moved to adopt the resolution. Senator Parrett seconded the motion, and the motion was adopted.

Blue Grass Army Depot Briefing

Samuel Hudson testified about the Blue Grass Army Depot (BGAD) and gave a PowerPoint presentation, which is part of the official record in the Legislative Research Commission Library. He stated that the Joint Munitions Command's (JMC) mission is to provide America's Joint Forces with ready, reliable, and lethal munitions at the right place and time, in a cost effective manner, to enable successful military operations. The JMC mission is ten percent contingency operations and 90 percent training. BGAD is part of the JMC mission. Mr. Hudson outlined the BGAD chain of command and the BGAD–JMC Ammunition Management. BGAD consists of 14,594 acres, 22 square miles, 1,228 structures, 902 Igloos (Ammo Bunkers), 174 miles of road, 41 miles of railroad track, and close proximity to 1-64/1-75. Thomas Turning, BGAD Operations Officer, said BGAD has 848 employees and the Blue Grass Chemical Agent-Destruction Pilot-Plant has 760, and there are 316 tenants/contractors for a total of 1,924 employees on base. The economic impact that BGAD provides to Kentucky is around $169.8 million.

BGAD's core competencies are to receive, store, maintain, issue and demilitarize conventional munitions. Mr. Hudson discussed the industrial capabilities of the BGAD to include: metal cutting, bending, press brake forming, imaging, welding, painting, machining, milling, and fabrication. He discussed the Chemical Defense Equipment (CDE) Program, and said BGAD is the Army's sole source provider of CDE and has worldwide support to store, inspect, test, and ship all CDE to Operation New Dawn.

Mr. Hudson stated that BGAD provides land for training by active duty and Reserve components of the Army, Marine Corps, and Navy, as well as the National Guard, ROTC, and the JROTC. In FY 10, 4,500 personnel trained. In FY 11, more than 5,000 personnel trained at BGAD, which is more than 60 units. In FY 12, the Depot began formalization of mobilized ordnance specific training. BGAD has partnerships with the U.S. Army, Blue Grass Unite, Lean Six Sigma, University of Kentucky, Eastern Kentucky University, Kentucky National Guard, Association of Machinists and Aerospace Workers International Union, Armament Research Development & Engineering Center, U.S. Army Tank Automotive, Research, Development and Engineering Center, Rock Island Arsenal, and Voluntary Protection Programs.

In response to a question from Representative Moore, Mr. Turning stated that the BGAD has 850 employees who are not military. In response to a question from Representative Riner, Mr. Hudson stated that civilians can have chemical protective suits for protection from a possible chemical attack by Iran. Individuals should contact the manufacturing company because BGAD does not buy chemical protective suits for re-sale to the public.

Adjourn

There being no further business, the meeting was adjourned.

Tour

The committee was invited to take a bus tour of the BGAD. Col. Brian Rogers guided the tour and answered questions.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes of the 10th Meeting of the 2012 Interim

October 16, 2012

Call to Order and Roll Call

The 10th meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, October 16, 2012, 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, Steven Rudy, and Jim Wayne.

Guests: Robin Brewer, Financial Analyst, Office of Financial Management; Scott Aubrey, Director, Division of Real Properties; Stephen Collins, Director, Bluegrass Station Army Depot.

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

Approval of Minutes

Representative Rudy moved to approve the minutes of the September 18, 2012 meeting. The motion was seconded by Senator Carroll and approved by voice vote.

Information Items

Kristi Culpepper, Committee Staff Administrator, said there were five items for members to review. The first three information items were quarterly status reports from the Administrative Office of the Courts, the Commonwealth Office of Technology, and the Finance and Administration Cabinet, including universities that manage their own capital construction programs. The fourth information item was the semi-annual report of the Kentucky Asset/Liability Commission. In response to questions from Representative Wayne, Robin Brewer stated she would report back to the committee on whether the state intends to file a lawsuit related to manipulation of the London Interbank Offered Rate with respect to the state's four outstanding interest rate swaps and regarding an estimate as to how much the state was underpaid by its counterparties on those contracts.

The final information item was an update on the ratings for the state's Grant Anticipation Revenue Vehicle (GARVEE) bonds. On September 12, 2012, Fitch downgraded Kentucky's GARVEE bonds from AA- to A+ and revised its outlook on the bonds' rating from negative to stable. Moody's put the same bonds on review for possible downgrade on September 25, 2012. These bonds are supported by federal appropriations for transportation infrastructure. The rating agencies cited uncertainty in federal transportation policy and federal reauthorization risk as reasons for the rating actions.

Lease reports submitted by the Finance and Administration Cabinet

Scott Aubrey presented six items to the committee. The first was an advertisement notice for the potential lease of 45,462 square feet of office space with 4,000 square feet of warehouse space and 225 reserved parking spaces in Frankfort for the Department of Public Advocacy. No action was required.

The second item was the report of an amortization of leasehold improvements for the Department of Public Advocacy in Warren County. The improvements, costing $26,694, are necessary to create four additional offices within the existing leased area. No action was required.

The third item was a report of state leases with square foot modifications for the period of April 2012 through June 2012. Of the eight lease modifications, two resulted in no additional cost to the Commonwealth, one resulted in an increase of $2 annually, and the remaining five modifications increased square footage with a total increased annual cost of $20,628. While the annual cost increased, the cost per square foot on these leases remained the same. In response to a question from Representative Glenn, Mr. Aubrey said the addition of three parking spaces on one of the modifications was due to an expansion of staff. No action was required.

The fourth item was a lease renewal with an annual cost exceeding $100,000. The Cabinet for Health and Family Services renewed its lease in Harlan County at an annual cost of $119,720. Senator Carroll made a motion to approve the lease. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

The fifth item was also a lease renewal with an annual cost exceeding $100,000. The Office of the Attorney General is renewing its lease at 1024 Capital Center Drive in Frankfort at an annual cost of $447,552. Senator Carroll made a motion to approve the lease. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

The sixth item was a built-to-suit lease project for the Department of Military Affairs. The Department sought approval for a multi-purpose building to be built at Bluegrass Station. Under a built-to-suit arrangement, a state agency conveys land to a private developer who designs, finances, and builds the project. The developer maintains ownership of the property, which is then leased to the state agency. The 200,000 square foot facility will consist of warehouse and office space for the National Guard's Consequence Management Support Center. Under the terms of the contract, the Department will pay $3.55 per square foot for an annual rental cost of $710,000. The state can extend the lease for a total of 14.75 years, at which time the cost of the building and appurtenances will be fully amortized. Additionally, the state has an option to purchase the property at the end of any lease term. In response to a question from Senator Carroll, Mr. Aubrey said the average cost per square foot for warehouse space in Fayette County was $5.38 per square foot. This lease will pay $3.55 per square foot for warehouse space. In response to a question from Representative Wayne, Mr. Aubrey said the state would lease the structure once complete, then sublease it to the federal government. He said that the lessor would finance the building of the facility, which is on Commonwealth-owned property, and the $710,000 in lease payments made annually would be made by the federal government to the state, which would than pay the lessor. In response to another question from Representative Wayne, Stephen Collins said the building would be used by the Consequence Management Center, which supports 19 office support teams and 57 rapid support teams who respond to domestic terrorist events. Senator Carroll made a motion to approve the lease project. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

Kentucky Infrastructure Authority (KIA)

Representative Glenn said the committee had received information from KIA on five Infrastructure for Economic Development grants. No action was required.

New Bond Issues

Robin Brewer presented three new bond issues to the committee. The first was for the State Property and Buildings Commission. The $5,354,013 bond issue will advance refund agency fund bonds SPBC issued for the University of Kentucky (tax-exempt and taxable). The transaction is expected to produce a net present value savings of $722,110. In response to a question from Representative Damron, Ms. Brewer said she was not aware of any conditions with respect to these bonds that would cause a problem on the open market and requires these bonds to be sold in a negotiated rather than competitive process. Ms. Brewer said the Office of Financial Management makes the decision to do a competitive or a negotiated sale on a case-by-case basis. Representative Damron said he prefers competitive sales unless there is something about the credit that may cause a problem, and this issue seemed uncomplicated. Ms. Brewer said the bond issue may have been negotiated because these are agency credits. Senator Carroll made a motion to approve the bond issue. The motion was seconded by Senator Leeper and passed with 7 yes votes and one pass.

The second bond issue was also for the State Property and Buildings Commission. The $5,105,124 bond issue will refund agency fund bonds SPBC issued for Eastern Kentucky University (tax-exempt and taxable). The transaction is expected to produce a net present value savings of $640,115. In response to a question from Senator Carpenter, Ms. Brewer said the bond proceeds will be used to refund previously issued bonds for the criminal justice department building and will not be used to finance an energy savings performance contract. Senator Carroll made a motion to approve the bond issue. The motion was seconded by Senator Carpenter and passed with 7 yes votes and one pass.

The third bond issue was also for the State Property and Building Commission. The $47,441,458 bond issue will advance refund agency fund bonds SPBC issued for the Kentucky State Fair Board. In response to a question from representative Glenn, Ms. Brewer said the difference in interest rate on this bond issue when compared to the previous two presented to the committee was likely due to the Fair Board's credit and the narrower revenue stream compared to the universities and their general receipts pledges. In response to a question from Representative Damron, Ms. Brewer said the bonds were tax-exempt. Ms. Brewer also said this bond sale was structured with a debt service reserve fund built in which may or may not be needed. In response to a question from Senator Carpenter, Ms. Brewer said the bond encompasses the South Wing C renovation and East Wing project. Senator Carroll made a motion to approve the bond issue. The motion was seconded by Representative Rudy and passed with 7 yes votes and one pass.

Bond activity report from the Office of Financial Management

Robin Brewer presented one follow-up report on a previously approved bond issue. The $1,400,000 in Kentucky Housing Corporation Conduit Multifamily Housing Revenue Bonds, Series 2012A and 2012B – Garden Apartments of Bowling Green will be used to acquire, rehabilitate and equip the existing Garden Apartments at 415 Trent Way in Bowling Green. The project includes 48 units, which will be restricted to tenants earning 40 percent or less of the area's median income. The cost of issuance was $42,500. These bond issues were approved at previous committee meetings, and no further action was required.

New school bond issues with School Facilities Construction Commission (SFCC) debt service participation

Ms. Brewer said there were 12 new school bond issues with School Facilities Construction Commission participation this month. The estimated annual SFCC debt service for these 12 issues is $1,645,597. None of the bond issues involved a tax increase. Senator Buford made a motion to approve bond issues. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

New school bond issues with 100 percent locally-funded debt service participation

Ms. Culpepper said there were five local school district bond issues with 100 percent locally funded debt service reported to the committee this month: Allen County, Jefferson County, Livingston County, Warren County, and Woodford County. None of the bond issues involved tax increases. No action was required.

With there being no further business, the meeting adjourned at 1:34 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the 2nd Meeting of the 2012 Interim

October 29, 2012

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Monday, October 29, 2012, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Ted Edmonds, 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, and Gerald A. Neal; Representatives Linda Belcher, Bill Farmer, and Mary Lou Marzian.

Guests: Jim Thompson, Education and Workforce Development Cabinet; Rowan Claypool, Teach Kentucky, Sandy Deaton, Prichard Committee, Wayne Young, Kentucky Association of School Administrators, Sue Cain, Council on Postsecondary Education, Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators, and Vince Robison.

LRC Staff: Ben Boggs, Ken Warlick, Janet Stevens, and Lisa Moore.

Adopt Minutes of August 14, 2012 Meetings

Representative Belcher moved to accept the minutes, and Representative Farmer seconded the motion. The motion carried by voice vote.

District Data Profiles 2011

Representative Edmonds commended the Office of Education Accountability (OEA) for receiving the national award for the *2011 Kentucky*

District Data Profiles report from the National Conference of State Legislature (NCSL). Ms. Marcia Seiler, Director, OEA, said the *2011 Kentucky District Data Profiles* is a publication intended to offer legislators and the general public a convenient source of information about each Kentucky school district. Whenever possible, longitudinal data are included to track trends over time. A dictionary of terms is included that defines each variable and identifies each data source. OEA updates the publication annually.

Ms. Seiler said the Education Assessment and Accountability Review Subcommittee (EAARS) approved the report in December 2011. The report provides a one-stop source of comprehensive district-level education data, which are comparable across all districts. The profiles are organized by the following topical areas: overview and trends, staffing, finance, and performance. The five tables at the end sort districts by adjusted average daily attendance, free and reduced-price lunch percentage, per-pupil state revenue, per-pupil property assessment, and junior composite ACT average for the 2011 school year. These tables are provided to allow profile users to identify similar districts for comparative purposes.

Ms. Seiler noted that given differences in district size, geography, and socioeconomic conditions, the profiles are not conducive to direct comparisons of district effectiveness. The profiles present a broad array of indicators across multiple areas of interest. OEA encourages users of the profiles to provide feedback for future versions. There is a link that legislators can provide to constituents interested in tracking and comparing these trends.

Representative Belcher moved to accept the OEA report *2011 Kentucky District Data Profiles* and Representative Farmer seconded the motion. The motion carried.

OEA Report: "Tracking Teacher Shortages in Kentucky: Trends and Continuing Questions"

Dr. Deborah Nelson, Research Analyst, OEA, said that for decades policymakers have been concerned about shortages of qualified teachers and the potential impact on future shortages of rising student enrollments, teacher retirements, and teachers leaving the profession. When shortages occur, teaching positions may be filled by those who lack knowledge or training relevant to the subjects they are teaching.

Dr. Nelson said over the last decade there have been substantial drops in the number of working teachers considered not fully qualified by state law. State data mirror national data indicating relatively few content areas in which vacant positions cannot be filled by certified teachers. However, the state has made little progress in meeting the General Assembly's goal of recruiting and retaining a diverse teaching workforce. Also, shortages are likely to be higher in some content areas in the future. The numbers of teachers completing programs in many secondary science areas and in English as a second language are not sufficient to meet the estimated demand for these teachers.

Dr. Nelson said teacher shortages appear to have been alleviated in part by the many teachers becoming certified through alternative routes. The routes were established by the General Assembly to encourage a variety of qualified individuals to enter the profession and to provide an alternative to the traditional certification routes that require candidates a four-year preparation program before beginning work as a teacher. While alternatively certified teachers are considered shortage indicators by the federal government, they are not linked to shortages in Kentucky law. However, the large percentages of alternatively certified teachers in some content areas may indicate a need for attention to early career monitoring. She noted most alternative routes allow candidates to begin teaching without previous training in instructional techniques.

Dr. Nelson said it has been suggested that policymakers focus more attention on the supply of effective teachers. While the state has seen a decrease in teacher shortages, the impact of this trend on teacher effectiveness is not known. She said the data presented in the OEA report suggest that in Kentucky, as in the nation, effective teachers may not be equally distributed among schools with different characteristics.

Dr. Nelson noted teacher supply and demand data are not tracked in the Commonwealth. While much of the necessary data can be found in existing sources, there is no single entity responsible for analyzing and reporting it. These data would be necessary to inform future initiatives directed at addressing teacher shortages in specific content areas.

Dr. Nelson said the Kentucky Department of Education (KDE) receives annual funding for a variety of educator diversity efforts. KDE requires districts to submit: 1) annual data on positions posted, minority interviews, and minority hires; and 2) plans documenting district efforts to attract and retain applicants. OEA's first recommendation is that the KDE should modify the requirements for the Minority Education Recruitment and Retention (MERR) data that districts submit annually.

Dr. Nelson said MERR scholarships are available to qualified applicants who are Kentucky residents that are minorities and declare education as a major field of study. She said about one-half of MERR recipients teach in Kentucky at least one year. However, this percentage is fewer than the recipients of teacher scholarships that remain to teach in Kentucky. OEA's second recommendation is that KDE should set guidelines that direct MERR scholarships more intentionally to applicants likely to teach in Kentucky public schools.

Dr. Nelson said teacher scholarships are available to qualified applicants who have financial need and are enrolled in any teacher preparation program in the state. It is not focused specifically on teacher shortage areas. However, teachers that teach in shortage areas get their loans relieved at a faster pace. She said statutory changes made in 2009 direct most of the $2 million funding for federal loan recipients, which is no longer funded. As a result, new teacher scholarships are substantially dropping from 601 in 2009 to 12 in 2012. The third OEA recommendation specifies that, if intent of the General Assembly is to provide funding for programs designed to address teacher shortages, it should consider directing a specific agency or entity to be responsible for periodically analyzing and reporting teacher supply and demand data in the Commonwealth.

Responding to questions from Senator Westwood, Dr. Nelson said Kentucky does not have a definition of teacher shortage that is used every year. She said the KDE Commissioner has the authority for the purposes of the teacher scholarship and other programs to identify the teacher shortages. In essence, Kentucky cannot equate the issuance of emergency teaching certificates as indicating a teacher shortage. She said the General Assembly clearly stated it wanted alternatively certified candidates applying and obtaining teaching positions. Using Kentucky's data, shortages have dropped.

Dr. Nelson said there is no disadvantage in identifying teacher shortage areas because it allows teachers to get their student loans forgiven. She does not think the federal government views alternative teaching certificates as less significant. Kentucky does not fund any programs to address teacher shortage areas.

Responding to Senator Westwood, Dr. Nelson said it was a surprise that more emergency teaching certificates were not sought to teach physics. She said high schools may be offering fewer physics classes, as it is not a requirement. Emergency certificates cannot be issued for positions that are not there. She will provide committee members with the data of how many high schools are offering physics and how many teachers are certified to teach physics.

Responding to Senator McGaha, Dr. Nelson said 48 percent of the 2,108 minority scholarship program recipients have taught at least one semester in Kentucky. She said 26 percent of them have repaid their loans and 26 percent are in default. Senator McGaha noted that 48 percent was not a good return on investment. He would also like to see the figures on where alternative certification is incorporated.

Dr. Nelson said minorities are not choosing to enter into education as much as other fields. Senator McGaha said KDE or some entity should be recruiting these applicants. He said Jefferson County does a great job recruiting minority candidates.

Responding to Representative Farmer, Dr. Nelson said Kentucky data is similar to national data on teacher retention rates. She said teacher retention is better in 2012 than in 2001. Representative Farmer said the percentages have not changed dramatically and trends need to be studied.

Responding to Representative Marzian regarding requirements for teachers who receive scholarships to teach in Kentucky, Dr. Nelson said if teachers leave Kentucky to teach, the scholarship converts to a loan. If the teachers stay in Kentucky to teach, the loan is forgiven.

Senator Neal said Jefferson County consistently recruits competitive minority candidates. He said KDE should review local school district plans and work with school districts on implementing recruiting strategies.

Senator McGaha moved to approve the report and Representative Farmer seconded the motion. The motion carried.

With no further business before the committee, the meeting adjourned at 2:20 p.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

November 8, 2012

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, November 8, 2012, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Vernie McGaha, Dan "Malano" Seum, and Brandon Smith; Representatives Dwight D. Butler, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Legislative Guest: Representative John Will Stacy.

Guests: Eric Friedlander, Deputy Secretary; Beth Jurek, Executive Director, Office of Policy and Budget; Betsy Dunnigan, Deputy Commissioner; Department for Behavioral Health, Developmental, and Intellectual Disabilities; Cabinet for Health and Family Services. Bruce Scott, Chairman, Advocates for Community Options. Diane Brewer, Personal Care Home Administrator, Seven Counties Services, Inc.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall; Colleen Kennedy; Katie Kirkland; Van Knowles; Lora Littleton; Jean Ann Myatt; William Spears; Joel Thomas; Leonard Evans, Graduate Fellow; Stella Mountain, Committee Assistant.

Senator Higdon said that a document has been placed in the members' folders, addressing some of the questions from the September meeting about the retirement systems.

Approve Minutes for October 11, 2012

Upon motion made by Representative Steele and a second by Senator Smith, the minutes of the October 11, 2012 meeting were approved by voice vote, without objection.

Consideration of Staff Report: *Implementation Status of Four Laws Related to Health and Welfare* (presented at October 11 meeting)

Upon motion by Senator McGaha and second by Representative Mills, the report was adopted by roll call vote.

Staff Report: *Personal Care Homes in Kentucky*

Senator Higdon said that this report resulted from a situation that Representative Mills and he became concerned about last year when a young man from their community left a personal care home and was found deceased 30 days later. Many questions arose from that situation. There are some very good personal care homes, but there are others in which residents do not receive needed care. Representative Mills agreed and said that more needs to be done to address residents' needs.

Van Knowles, Katie Kirkland, and Joel Thomas presented the report. Mr. Knowles said that the study focused primarily on a group of personal care homes (PCHs) that serve people who receive public assistance called state supplementation. Personal care homes are licensed health facilities and may have nurses on staff. They also are long-term care facilities. PCHs follow both sets of laws and regulations.

The Cabinet for Health and Family Services (CHFS) issues licenses for personal care beds within larger facilities, usually nursing homes. These are considered nonfreestanding PC units. Freestanding PCHs have only a personal care license.

Most freestanding PCHs can be distinguished as private-pay or supplement PCHs. Private-pay PCHs serve people with higher incomes who are retired. The report uses the term "supplement PCH" to refer to facilities that accept recipients of state supplementation. State supplementation is the public assistance program that permits people with low incomes who are elderly, blind, or have a disability to live in PCHs. The supplement program is based on eligibility for Supplemental Security Income (SSI). Most supplement recipients have a severe and persistent mental illness; others have intellectual and developmental disabilities.

The two types of PCH differed significantly in the variety and quality of food, appearance of the residents, cleanliness, and activities. Private-pay PCHs charge an average of $3,300 per month. Supplement PCHs must accept $1,158 per month from residents receiving state supplementation.

Program Review staff conducted a survey of all 81 freestanding PCHs. Twenty-three PCHs, with 1,054 residents, fell clearly into the private-pay category. Fifty PCHs, with 2,361 residents, accepted a significant number of supplement recipients. If they had private-pay residents, they paid only a little more than state supplement rates. The supplement PCH group includes three state-operated specialized PCHs for treatment of people with severe and persistent mental illness.

Of the 23 private-pay homes, 16 are in the urban areas of Fayette County, Jefferson County, and northern Kentucky. There are only two such homes east of Madison County and two west of Jefferson County. State supplement personal care home locations in Kentucky are dispersed, but distinct gaps in coverage are found throughout the eastern and south central parts of the state. Western Kentucky exhibits a greater concentration of supplement personal homes and total capacity. The urban areas of Louisville and Lexington do not have any supplement personal care homes except two of the specialized state facilities not intended for long-term residence. These gaps in coverage could impact the placement of residents, perhaps forcing a relocation that is far from home.

Ms. Kirkland said that in 2012 the payment standard is $1,218. When the $60 personal needs allowance is subtracted, that leaves $1,158 that goes to the personal care home. Adjusted for inflation, since 1990 the amount received by personal care homes has been above $1,000 and has averaged $1,164. Since 1998, the average has been $1,190.

The first major conclusion of the report is that supplement personal care home operators reported that the $1,158 they must accept each month is too low to support operations. Their staffing levels are minimal, and staff generally have no credentials and are paid minimum wage or slightly more.

Recommendation 2.1 is that CHFS should propose a state supplementation rate-setting process. This would involve a periodic financial audit of personal care homes accepting state supplementation recipients. CHFS should present the proposal, including its projected costs, to the Program Review and Investigations Committee by October 1, 2013.

Personal care home residents must pay for their own personal and medical expenses with their own resources, including any health insurance. Supplement recipients have full Medicaid coverage for health and behavioral health services. Some, who are called "dual eligible," also have Medicare coverage. Some personal care home administrators and state guardians reported that some dual-eligible residents had trouble paying for medical expenses. Medicaid picks up the remainder of covered expenses after Medicare pays, but Medicaid is not permitted to pay for their prescription costs. The Medicare prescription plans available to dual eligibles have co-payments of up to $6.50. Co-payments might consume a significant portion of a resident's $60 monthly allowance.

Private-pay residents of supplement PCHs have low incomes and sometimes high medical expenses. Medicare has significant premiums, deductibles, and co-payments, and these residents are not eligible for full Medicaid coverage. If a resident had insufficient funds to pay for prescriptions and needed items such as clothing, the PCH would have to discharge the resident or agree to pay the excess expenses from PCH funds.

The second major conclusion of the report is that residents at supplement PCHs have few organized activities and outings. Most residents are free to come and go, but they usually have no transportation except to go to appointments. Many supplement PCHs are not within easy walking distance of places to work, shop, or seek recreation. The $60 personal allowance is insufficient for many residents to obtain the things they need.

Recommendation 2.2 is that CHFS should propose a method for setting the personal needs allowance for state supplementation recipients based on a periodic assessment of personal expenses. CHFS should present the proposal, including its projected costs, to the committee by October 1, 2013.

Many of the costs associated with personal care home residents consist wholly or partly of state general funds. For FY 2011, costs totaled about $28 million, approximately $9,600 per personal care home supplement recipient.

Mr. Knowles said that another major conclusion is that supplement PCHs provide personal care assistance, manage residents' medications, and arrange for medical and behavioral health care. Some provide additional nursing services, but they do not provide direct behavioral health services, and their plans of care are not designed to improve residents' functioning or assist them in moving into more independent living arrangements.

The range of health services that a PCH may offer depends on whether the PCH has nurses on staff. Only 44 percent of supplement PCHs had a nurse, and none had nurses on duty at all times. There appeared to be different opinions about what health services PCH staff may provide. When a PCH has no nurse, the staff may keep medications in a central location and assist with self-administration, but they may not administer medications. Self-administration means that the resident makes all the decisions when the prescription says "take as needed" or permits a range of doses like "1 to 2 pills." PCH staff cannot decide when a resident should take such medications or what the dose should be. When there is a nurse on staff, the nurse may train and delegate staff to administer medications and perform other basic nursing tasks.

The Kentucky Board of Nursing has issued an opinion that nurses may not delegate injections and other nursing tasks that require significant nursing skill or judgment. Nurses must perform those tasks themselves.

Regulations mention "certified medication technicians," but the term is not defined. CHFS officials reported that the Kentucky Medication Aide program at the community and technical college system is the certification process, but the qualifications and certification process are not defined in regulations or in written policy. Medication aides or technicians are not licensed. A Board of Nursing opinion states that medication aides may administer medications only when delegated by a nurse in the same manner as other PCH staff.

Recommendation 3.1 is that the cabinet should through regulation clarify the health services that PCHs may provide and should uniformly define the title, education, and certification requirements for certified medication aides.

Primarily at private-pay PCHs, some elderly residents who are terminally ill receive hospice services. They view the PCH as home and would like to remain there to die, as they might in their own houses. Some PCH administrators reported that terminally ill residents had to move to a nursing home or hospital when they were no longer mobile, despite their and their families' wishes to stay at the PCH. The administrators said their staff and hospice workers would be able to serve these residents safely at the PCH. Cabinet officials reported they had discussed a hospice policy but did not have one yet.

Recommendation 3.2 is that the cabinet should consider specifying a policy on hospice care for PCH residents. This probably could be done through a regulatory change.

People with severe and persistent mental illness or intellectual or developmental disabilities usually can improve their skills and become more independent. However, conditions at supplement PCHs are not conducive to those goals. Staffing is usually minimal, and staff are paid minimum wage or just a little more. They do not have professional credentials and do not provide behavioral health services such as counseling or psychotherapy. Resident activities are limited and were not designed to improve skills or increase independence or integration into the community.

Recommendation 3.3 is that CHFS ensure that personal care homes serving people with mental illness or intellectual or developmental disabilities increase their efforts to encourage healthy lifestyles, provide stimulating activities, teach skills that could lead to greater independence, and facilitate meaningful integration with people in the community at large.

Some PCH residents receive services at community mental health centers. They may go to the clinics for counseling, psychiatric prescriptions, therapeutic rehabilitation, and other behavioral health services. There did not appear to be any evidence that community mental health services resulted in greater independence or integration into the community.

Recommendation 3.4 is that CHFS should develop a proposal on how community mental health centers can demonstrate that the services they provide to PCH residents actually achieve increased integration into the community and more independence. CHFS should present the proposal, including its projected costs, to the committee by October 1, 2013.

Another major conclusion is that regulators do not verify that a PCH is the appropriate placement for all residents. Rather, regulators deem the PCHs responsible for determining whether they can meet the needs of residents they accept. PCHs have to identify all potential risks for each resident and develop effective plans to handle them. If a PCH cannot meet the needs of a resident, the PCH must transfer the resident to another facility. It can be difficult to transfer a resident who needs specialized or intensive services. Most PCHs look at a prospective resident's health history and use their judgment to determine whether they can meet the resident's needs. Judgment of this sort can be unreliable. Program Review staff did not find any reliable assessment methods in use, though some might be available. One indicator of risk is qualifying for one of certain Medicaid waiver programs. To qualify for these waivers, someone must need specialized services normally provided in a nursing facility or intermediate care facility. One reason that some people living in PCHs qualify or might qualify for Medicaid waivers is the shortage of waiver slots. People on waiting lists have not yet been assessed to determine whether they qualify for waiver services, but being on the list is an indication that they might need specialized services.

Recommendation 3.5 is that CHFS should inform PCHs not to admit anyone who is eligible to receive services under the relevant waivers unless the facility can provide or arrange for the specialized services the applicant requires. If anyone eligible for a waiver is already at a PCH inappropriately, the cabinet and facility should make every effort to transfer the resident to a more appropriate setting. PCHs should carefully screen applicants and current residents who are on a waiver waiting list because they might need specialized services.

For people on a waiver waiting list or potentially qualifying for a waiver or for the new Medicaid program for people with severe and persistent mental illness, Recommendation 3.6 is that the cabinet should develop a proposal to assess and divert them to an appropriate placement. The recommendation also asks the cabinet to explore ways to assess PCH applicants and residents generally for appropriateness. CHFS should present the proposal, including its projected costs and options for payment, to the committee by October 1, 2013.

Mr. Thomas said that the CHFS Office of Inspector General (OIG) has primary oversight of PCHs and is responsible for issuing PCH licenses, conducting annual relicensure inspections, and investigating complaints against PCHS.

KRS 216.530 mandates that the cabinet perform unannounced inspections of each PCH no later than 7 to 15 months after the previous inspection. The cabinet refers to these inspections as "relicensure surveys." OIG conducted 246 relicensure surveys at 86 freestanding PCHs from July 2008 to June 2012. Of the 160 relicensure surveys for which Program Review staff were able to determine the number of months that had elapsed since the last survey, fewer than half were conducted within the 7-to-15-month window mandated by law.

OIG officials reported to Program Review staff that they had realized in December 2010 that relicensure surveys were behind schedule due to high staff turnover. Regional program managers were directed to ensure that all surveys were up to date by January 15, 2011. All but one PCH survey was current by that date. Program Review staff examined the number of months that had passed between the surveys that brought relicensures up to date as of Jan 15, 2011 and the next surveys. Thirty percent of PCHs were not surveyed within the 15-month mandatory period.

If upon inspection CHFS determines that a PCH has not met the regulations, standards, or requirements, a citation or a statement of deficiency is issued for each failure to comply. A Type A violation presents an imminent danger to any resident or staff person and can result in fines of $1,000 to $5,000. A Type B violation presents a direct risk to the health, safety, or security of any resident, but does not create an imminent danger to life and can result in a fine of $100 to $500. Noncompliance that does not rise to the level of a violation is considered a deficiency, which is not fined.

PCHs were in full compliance for approximately 40 percent of the surveys conducted from July 2008 to June 2012. Most surveys found minor noncompliance that resulted in a statement of deficiency. On 12 occasions, the surveyor found deficiencies and violations. Eleven of the 12 violations included a Type A citation. When a PCH is found in noncompliance, regulations require the facility to submit an acceptable plan of correction to the cabinet within 10 days. There are no specified limits in regulation on the overall time period or the number of proposed plans that may be submitted.

Of the 767 allegations filed with OIG from July 2008 to June 2012, 21 percent were classified as immediate jeopardy, 62 percent as high priority, 16 percent as medium priority, and less than 1 percent as low priority. The agency has a target date for responding to each type of complaint.

In 2012, 85 percent of immediate jeopardy allegations were investigated within the target date of 2 days, which is an improvement from the previous 3 years. The pattern for medium priority investigations is similar. However, only 32 percent of high priority cases were investigated within the target period of 10 days.

Review of digital documents for seven PCHs related to the past 4 years of relicensure and complaint surveys revealed inconsistencies in the thoroughness of relicensure surveys. OIG officials acknowledged that there is no agency-approved checklist or standardized form that surveyors use to ensure they have examined all the statutory and regulatory requirements, but they expressed hope that surveyors were going through the PCH Regulations book item by item. This was not always the case. In several instances, OIG surveyors found a PCH in compliance during a relicensure survey but found deficiencies during a later visit that would have been present earlier.

A major conclusion is that there have been inconsistencies in oversight of PCHs. For a period, responses to complaints were slow and relicensure surveys were not done on time. Responsiveness and timeliness have improved. Several other agencies are involved with PCHs and their residents, and those agencies need to coordinate their efforts.

Adult Protective Services (APS) is also responsible for investigating allegations of abuse, neglect, or exploitation at PCHs. Data provided by OIG and APS indicate instances for which only one of the agencies investigated an allegation.

Recommendation 4.1 is that OIG should ensure that PCH relicensure surveys are conducted in the 7-to-15-month time frame mandated by law and should adhere to its established targets for investigating complaints. Relicensure surveys should uniformly verify compliance with all applicable requirements and document their findings. The agency should monitor the cycle of correction plans and the number of serious violations that may occur before it takes licensure or injunctive action.

A major conclusion is that the Americans with Disabilities Act and the Supreme Court's *Olmstead* decision require state-supported services for people with disabilities to be provided in the setting most integrated into the community at large. Use of facilities like PCHs in other states has been found to be in violation of the Act.

Another major conclusion is that the lack of housing options and treatment services would likely result in homelessness, frequent hospitalization, and possible jail time were it not for personal care homes.

The final major conclusion of the report is that people with severe and persistent mental illness have been unable to benefit from Medicaid funding for intensive support services in individual homes. The General Assembly provided funds for a new support service program; the cabinet is working to implement it. Clients must pay shelter expenses from their own funds with the help of limited housing subsidies.

Changes to the Social Security Act provide an opportunity to serve those with serious and persistent mental illness (SPMI) similarly to other populations but without a waiver. The General Assembly allocated $600,000 in general funds to serve 200 clients in FY 2013 and $1.2 million to expand to serve 600 clients by the end of FY 2014. After describing potential issues in implementation, Mr. Thomas noted that the program will offer a service similar to assertive community treatment (ACT). ACT may be customized, is flexible, and is comprehensive in its scope. The focus is on living with psychiatric symptoms, being integrated into the community, and having a behavioral health care plan that is tailored to individual needs. ACT has been shown to be successful in urban areas, where existing housing, infrastructure, and health care supports are readily available. Limited evidence exists showing how assertive community treatment might be implemented in rural areas.

In response to questions from Senator Higdon, Mr. Knowles said that the payments to PCHs per resident were the same as in 1998 adjusted for inflation. He was unaware of other state programs with the same funding as 14 years ago. Senator Higdon said he understands the problems personal care homes have to make ends meet. The General Assembly has not done a good job in providing them with adequate funding.

In response to a question from Representative Steele, Mr. Knowles said that the fines for Type B violations can be used to pay for fixing the problems resulting in the fine. He said that the cabinet could better respond as to what happens with the remaining fine amounts.

Senator Higdon said that it appears that OIG has improved on inspections. In response to a question from Senator Higdon, Mr. Knowles said that the latest numbers are better than in the past but still show room for improvement.

In response to a question from Representative Butler, Mr. Knowles said that ACT is similar to services provided through Supports for Community Living (SCL), but ACT is intended for people with SPMI who need an array of services.

In response to a question from Representative Butler, Mr. Knowles said that it can be true that residents have no place else to go if a home is found to be in violation, but when the Dry Ridge home was closed, places were found for residents. Overall, occupancy at PCHs is 88 percent, so there are openings. The problem can be finding a home willing to take someone who has risks involved with his or her placement.

Senator Seum asked whether inspectors check on residents to see if they are threats to others in the home. Mr. Knowles responded that surveyors typically do not go through residents' records. Senator Seum cited the example of someone at a nursing home who killed a fellow resident. Mr. Knowles said that it is the responsibility of the home to determine proper placements according to OIG.

Senator Smith said that a few years ago he wrote self-determination legislation to enable the mentally ill to live in their own houses [HB 501, enacted in 2003] to help defray some of the costs related to the mentally ill. He asked whether that is still a need and whether that legislation is saving money in dealing with people with mental disabilities. Mr. Knowles said that the cabinet could better address this.

Responding to the report, Mr. Friedlander said that the report is an accurate and balanced study of a complex area. PCHs were an issue when he started with the cabinet in 1985. Addressing an earlier question, SCL, Michelle P, and other waivers have mostly served those with intellectual and developmental disabilities. Those with SPMI are not served by those waivers. This is the population that the cabinet is trying to address. ACT is more intensive than SCL; it helps with tasks such as finding housing, employment, and medicine dosages outside an institutional setting. The consumer self-determination is a great benefit for those with mental illness to pick their own service providers. It is also less expensive than placing someone in a facility.

Senator Smith said that self-determination is positive for the patient and for funding. It has been 9 years since the legislation was enacted. He would like to follow up on tweaking the self-determination approach.

Responding to an earlier question, Ms. Jurek said that fines go to the Board of Nursing for nursing scholarships.

In response to a question from Senator Higdon, Mr. Friedlander said that he does not think that the cabinet puts up any roadblocks to PCH providers. However, programs without increases in reimbursement include comprehensive care centers, particularly in the area of behavioral health, and funding is an issue.

Ms. Jurek said that not as much progress has been made for people with SPMI as for those with intellectual and developmental disabilities. The cabinet recognizes that this is an issue.

Senator Higdon said that based on his visits to PCHs, residents consider the PCH to be their home and a better job is needed in providing services in these homes.

Responding to an earlier question, Mr. Friedlander said that OIG is not caught up on inspections. Funding and staff turnover have been issues.

Ms. Jurek said that due to funding issues, it is difficult to recruit and retain nurses, who are the majority of survey staff.

In response to a question from Representative Steele, Ms. Jurek said that registered nurses are used as inspectors.

Responding to an earlier question from Representative Butler, Ms. Dunnigan said ACT is provided through a treatment team that is available at all times. SCL is more about providing personal services.

Representative Mills said that Kentucky spends less on mental health issues than other states. He asked whether there was anything in the report on this. Mr. Knowles said that staff tried to look at other states and how they do things similar to services provided in Kentucky PCHs. There was so much variety in how facilities are defined in statutes that it was not feasible to make good cross-state comparisons.

Senator Seum said that the report did not address the tort issue. Mr. Knowles said that staff did not hear from PCHs that this is a problem. Nursing homes probably face lawsuits more frequently because they have patients with much higher medical needs.

Mr. Scott said that he is chair of Advocates for Community Options, a group of stakeholders in Kentucky's mental health system. The group's concern is that thousands of Kentuckians with severe mental illnesses live in personal care homes because the state does not provide a similar level of support in their homes. His first major point was that CHFS needs to strengthen the system of community supports. The group's studies indicate that the state money supporting people in PCHs is enough to support them in the community. Steps suggested to CHFS include prompt implementation of the Medicaid waiver program for people with mental illness approved by the 2012 General Assembly, revamping Medicaid mental health benefits to bring them into line with psychiatric rehabilitation science, transforming PCHs administered by the Department for Behavioral Health into community support programs, and making the state supplement for community support equal to that received by PCH operators. His second major point was that the legislative and executive branches need to address the civil rights issue raised by supporting people in PCHs without offering an alternative in the community. The civil rights issue was defined in the Olmstead decision and is being litigated in a dozen other states.

In response to a question from Representative Steele, Mr. Scott said that his last dialogue with the cabinet was within the past 30 days.

Ms. Brewer said that she was an administrator for one of the state's three contracted PCHs. The Department of Behavioral Health has allowed the PCH to use funds designated for the operation of a PCH to provide in-home support services to former residents who are now living in apartments. The transition from a PCH program to a program providing permanent supportive housing is half completed. Clients are flourishing in their own homes with daily visits from former PCH staff. Kentucky has the opportunity to shift institutional support funding to community support funding to allow persons with disabilities to live in their communities.

The meeting adjourned at 11:27 a.m.

2012 SS HB 1 IMPLEMENTATION AND OVERSIGHT COMMITTEE

Minutes of the 4th Meeting of the 2012 Interim

October 17, 2012

Call to Order and Roll Call

The 4th meeting of the 2012 SS HB 1 Implementation and Oversight Committee was held on Wednesday, October 17, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative John Tilley, Co-Chair; Senators Jimmy Higdon and Ray S. Jones II; Representatives Linda Belcher and Sara Beth Gregory.

Guests: David Cobb, for Senator Julian Carroll; Sandra King, Kentucky Association of Health Care Facilities; Bonnie Lazor, Vintage Care/Kentucky Association of Health Care Facilities; Mary Haynes, Nazareth Home/Kentucky Association of Health Care Facilities; Sarah S. Nicholson and Brian Brezosky, Kentucky Hospital Association; Connie Calvert, Board of Optometry; Heather Wright; Kathleen Luchtefeld, The Pain Treatment Center, and Priscilla Black, Legislative Research Commission, among others.

LRC Staff: Jon Grate and Marlene Rutherford.

Approval of Minutes

Representative Gregory moved that the minutes of the September 19, 2012, meeting be approved. Following a second by Representative Belcher, the minutes were approved without objection.

Revised Kentucky Board of Medical Licensure Prescribing and Dispensing Regulations

Dr. Preston Nunnelley, Chairman, and Michael Rodman, Executive Director, Kentucky Board of Medical Licensure, discussed revisions that have been made to the Kentucky Board of Medical Licensure (KBML) regulations in an effort to address the concerns of practitioners.

Dr. Nunnelley said that KBML has attended each of the HB 1 Implementation Oversight Committee meetings, has met regularly with the Governor's Stakeholder Workgroup, has met with individual practitioners, group practices, and medical staff of hospitals, has held educational meetings and formal comment hearings, has posted various education resources on the KBML website, and has approved several educational courses to comply with the requirements of House Bill 1 (HB 1). KBML has posted notices and e-mail alerts to clarify issues and added four additional board meetings each year to the schedule to meet the requirement of concluding investigations within 120 days. One of KBML's most positive experiences has been the collaborative efforts in working with the different organizations such as Lexington Clinic, Kentucky Hospital Association, Kentucky Medical Association, legislative members, and other interested organizations. KBML is aware of the confusion among the various specialties of practice and is working with them to address their concerns and is recommending regulatory revisions to simplify compliance. Some of the areas being revised are chronic non-cancer pain and mental health prescribing. The board is paying attention to pediatric prescribing for ADHD and ADD to make sure the regulation is clear and so that monitoring with drug screens will not be part of the issue for pediatric patients.

Responding to a question from Chair Stivers, Dr. Nunnelley indicated that KBML is evaluating the board's drug screen requirement to make sure that it is triggered only in appropriate medical circumstances and that the screening has enough reliability to reduce the numbers of follow up confirmation screens needed. Emergency room physician concerns have been addressed. The board is finishing its revisions for a few remaining conditions such as testosterone treatment as it compiles information submitted in various hearings and forums.

Mr. Rodman informed the committee that cases alleging pill mill activity have dropped since HB 1, that since April 2012, thirty three physicians have been sanctioned for prescribing violations, ten emergency orders have been issued, fifteen agreed orders entered into with definite restrictions or the ability to prescribe medications taken away, and five orders of surrender of licenses issued in lieu of revocation, which compares to eighteen doctors being sanctioned in all of 2011.

Dr. Nunnelley indicated that KBML's goal is to customize the practice of medicine to comply with HB 1 for each of the specialties of practice and maintain the protection needed for the profession while allowing physicians to practice good quality of care.

Responding to a Representative Belcher question, Dr. Nunnelley and Mr. Rodman said there are no restrictions on prescribing any kind of pain medication other than to follow the rules, that there is nothing in the regulations that would prohibit emergency room prescribing, and that blood or urine testing in an emergency room situation would only be required where needed to evaluate a disease or condition or the physician suspects drug abuse. In long term prescribing situations, multiple drug tests over a year are indicated only where the physician determines that the patient is at an extremely high risk for diversion or in the event of a suspicious KASPER report.

In response to an inquiry by Representative Tilley regarding the current emergency regulations, Dr. Nunnelley said KBML is putting together a final draft of the regulations after all suggestions from the different hearings are received. At that point, KBML will file an amendment to the emergency regulations and follow up with an amendment to the ordinary regulations, with a target date for this being November 1.

Responding to a Representative Gregory question, Dr. Nunnelley and Mr. Rodman said that sections of the draft regulations that had been titled but had no text were areas where the board was still engaging in significant work to craft appropriate language. Those sections will be complete by November 1. The goal is to have language reflecting good practices already occurring in physician's offices.

Responding to a Senator Higdon KASPER question, Dr. Nunnelley said that KBML has been extremely pleased with KASPER's responsiveness, with queries of almost 20,000 per day and most reports being received within seconds. While there have been occasional delays, prescribing should not be impeded as the physician only needs to document the attempt to query KASPER.

Chair Stivers again reiterated that there is still a lot of misinformation on what can or cannot be done in prescribing and dispensing medication and appreciated KBML's efforts to rectify any misinformation.

House Bill 1 Stakeholders

These presenters were a continuation of scheduled stakeholder testimony from the August meeting. Mary Haynes, Executive, and Sandra King, Assistant Director of Nursing, Nazareth Home in Louisville, Kentucky, and Dr. Bonnie Lazor, Geriatrician, and President of the Kentucky Association of Medical Directors, representing the Kentucky Association of Health Care Facilities, discussed HB 1 and the regulations as they relate to long-term care facilities.

Ms. Haynes indicated that while long-term care facilities are exempt from the definition of pain management facility in KRS 218A.175, the facilities are not exempt from the rest of HB 1, including requirements on the prescribing requirements for medical practitioners.

Ms. King stated that long term care facilities are highly regulated by federal and state governments, and the regulations are designed to specifically control, monitor, and prevent the diversion of scheduled drugs in the long-term care setting. Facility residents are given a comprehensive, thorough assessment upon admission, with quarterly and annual follow up, which takes into account the resident's history, diagnosis, medications, overall physical and psychosocial needs, and the resident's pain management needs and which results in a plan or treatment of care with on-going review during the stay at the facility. She requested that long term care facilities be exempt from the requirements for prescribing the controlled substances outlined in the law and regulations.

Dr. Lazor's spoke on geriatric patients receiving palliative as opposed to hospice care who receive treatment for pain during a long-term care facility stay for rehabilitation after surgeries and patients who are long-term care residents who will not be leaving the facility. She discussed the role of narcotics in end of life treatment and asked that the regulations and law be changed to exempt nursing home settings so that timely treatment of pain can be administered for end-of-life patients and that additional exemptions be provided for the geriatric population because those patients have life limiting, chronic diseases and deserve to have those symptoms controlled.

Heather Wright and Kathleen Luchtefeld of The Pain Treatment Center of the Bluegrass spoke next. Ms. Wright indicated that many of the August concerns have been addressed in the discussions by the boards, Governor's Office, and stakeholders, that The Pain Treatment Center has been receiving more patient referrals, and that the patient backlog being experienced by pain clinics is becoming an access to care issue. She discussed problems with the required drug screening, which is a good requirement but that is encountering difficulties in having insurance companies cover as a reimbursable benefit. Senator Stivers observed that it would be in the best interests of third party payers to pay for those screenings because the long-term cost savings would be greater than costs of the tests. Ms. Wright said that there is inconsistency among the third-party payers, specifically with Medicare where a urine drug screen is required if it is believed there is an illicit behavior.

Ms. Luchtefeld called attention to the tight implementation timeline, saying this is a complex issue and that practitioners face a difficult situation of being in substantial compliance with regulations that are not finalized.

Law Enforcement Experience

William Mark, Director, Northern Kentucky Drug Strike Force, serving Boone, Kenton, and Campbell counties, and Tim Fegen, Executive Director, Buffalo Trace Gateway Narcotics Task Force, serving Mason, Bracken, Pendleton, Robertson, Bath, Montgomery, and Fleming counties, discussed their experiences. Mr. Mark said heroin has been prevalent throughout the northern Kentucky for years and is increasing. Over the last 2-3 years heroin has dominated the illicit drug market. Two-thirds of heroin arrests in the Commonwealth were in the northern Kentucky. Narcotics officers say that heroin is replacing Oxycodone as the opioid of choice for abusers in northern Kentucky, but that this trend preceded passage of HB 1. Mr. Mark said he had seen positive affects since the passage of HB 1 in addressing suspect pain clinics in northern Kentucky.

Mr. Fegen said his investigations in northeastern Kentucky saw an increase in heroin activity prior to the implementation of HB 1. Major dealers are having difficulty finding pills to sell. Implementation of the bill has worked well for law enforcement because the opioid drugs are not as frequently available. In response to a question by Chair Stivers, Mr. Fegen said that the major dealers prior to HB 1 obtain most of their prescription drugs in Kentucky although they also make trips out of state, that mid-level dealers have as many as ten individuals working to obtain controlled substances, that HB 1 has made it more difficult to use the in-state doctors for that supply, and that two current problems are black tar heroin and out-of-state prescription drugs.

Facilitating Drug Investigations Across Agencies

Mitchel Denham, Attorney General's Office, Stephanie Hold, KASPER program, and Morgain Sprague, State Police, talked about cooperation between KBML and other regulatory boards, the Cabinet for Health and Family Services, the Kentucky State Police (KSP), and the Attorney General's Office (OAG). These entities have agreed to a Memorandum of Understanding (MOU) putting a system into place to coordinate complaints. Mr. Denham said the MOU was developed because there was a lack of formal complaints by the boards prior to HB 1 to the KSP and OAG, that there was a lack of coordination between law enforcement looking at complaints about prescribers, and that law enforcement needed information so they could target the most egregious violators. After a series of meetings with the agencies, the MOU was drafted, and it went into effect the same day as the legislation. A concurrent project was the development of the Prescriber Information for Licensure Boards and Law Enforcement complaint database (PILLS). The MOU contains a sharing and cooperation agreement concerning KASPER and trend reports, proactive investigations, and meetings and centralized reporting systems between the signatories. This mirrors key provisions of HB 1 directing the cabinet to proactively search and use the KASPER database to find practitioners who are overprescribing and the requirement that the information be shared with law enforcement. He emphasized that the legal protections contained in KRS 218A.202 and other statutes are still in place, that the MOU does not give anyone greater access but just coordinates that access, that the boards must put allegations into the database and law enforcement will be able to review these complaints and determine whether to investigate, and that the boards have agreed to wait on administrative action if requested by the OAG or KSP in the event of an undercover operation. Mr. Denham said that the MOU is working and that boards are entering complaints into PILLS, that information is being shared more freely, that KASPER is being more proactive, and that KBML has increased disciplinary action for inappropriate prescribing.

Ms. Hold discussed the PILLS database. From the effective date of the bill until mid-October, two complaints had been entered for the Board of Dentistry, 30 for the Board of Medical Licensure, five for the Board of Nursing, four for the Board of Pharmacy, and one for the Board of Podiatry. One final disposition was entered. There are 27 designees among the licensure boards and law enforcement agencies that are using the system. Licensure boards may only see complaints for their respective licensees. Law enforcement is able to see all complaints. Each complaint entered will have responses from the appropriate users after the required data fields are completed.

Ms. Sprague emphasized the MOU gives law enforcement the opportunity to have KASPER utilized as a proactive investigative tool and is filtered for privacy protection through CHFS, KBML or other regulatory board, and law enforcement. The database will allow investigations to be deconflicted between various investigating agencies.

In response to a question by Representative Gregory, Mr. Denham said an earlier court opinion concerning the Attorney General's law enforcement investigatory authority is before the Supreme Court on Motion for Discretionary Review, that there are provisions in KRS Chapter 15 that permit the Attorney General's Office to go into a jurisdiction on the request of a mayor, a majority of the city council, or a court, and that there are provisions that allow the Attorney General's Office to conduct an investigation in a jurisdiction at the request of the Commonwealth's attorney or county attorney.

House Bill 1 Required Overdose Death Reporting and Dissemination

Van Ingram, executive director of the Office of Drug Control Policy, discussed the overdose reporting requirements Sections 7 and 8 of HB 1 as they relate to coroners, medical examiners, death certificates, and his office. His office is working with Kentucky.gov to create a single report and database where each coroner would be assigned a User ID and password, the form completed, and then populated to the database so the information can be shared among the agencies. The project is not complete and is waiting its turn in projects being worked on by Kentucky.gov. Mr. Ingram said that third-party payers and managed care organizations' issues concerning urine drug testing are being addressed by the Department of Insurance.

The meeting adjourned at 2:35 p.m.

TASK FORCE ON KENTUCKY PUBLIC PENSIONS

Minutes of the 5th Meeting of the 2012 Interim

October 29, 2012

Call to Order and Roll Call

The fifth meeting of the Task Force on Kentucky Public Pensions was held on Monday, October 29, 2012, at 1:00

PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Jimmy Higdon, Paul Hornback, Bob Leeper, Joey Pendleton, Dorsey Ridley, and Mike Wilson; Representatives Derrick Graham, Keith Hall, Brad Montell, Marie Rader, Rick Rand, and Brent Yonts.

Guests: Representatives Dennis Horlander and Arnold Simpson; David Draine, Pew Center on the States; Josh McGee, Laura and John Arnold Foundation; Richard Hiller, TIAA-CREF; William Thielen, Kentucky Retirement Systems.

LRC Staff: Judy Fritz, Brad Gross, Jennifer Hays, Greg Woosley, and Peggy Sciantarelli.

Approval of Minutes

The minutes of the September 18 meeting were approved without objection, upon motion by Representative Yonts.

TIAA-CREF Retirement Plan Presentation

Guest presenter was Richard Hiller, TIAA-CREF Senior Vice President for the Midwest Region, and Head of National Government and Religious Markets. The meeting materials included copies of his slide presentation and a flyer entitled "TIAA-CREF at a Glance."

Mr. Hiller said that TIAA-CREF is a $500 billion nonprofit organization dedicated to government education and research in broad or nonprofit fields. Core defined contribution (DC) retirement plans with TIAA-CREF have been in place with the University of Kentucky since 1964, the University of Louisville since 1955, Northern Kentucky University since 1970, and the community colleges since 1998. The primary focus of these plans is retirement income, and they have performed very well for both the employee and employer. TIAA-CREF was recently hired by the state of Rhode Island to manage the DC part of its new hybrid retirement system.

Mr. Hiller described features of hybrid defined benefit (DB) and core DC plans. He said a core DC plan is similar to a privatized cash balance plan. Unlike a traditional cash balance plan, it removes investment performance risk from the state, with the risk being borne by the insurance company issuing guaranteed products within the plan design. Both hybrid DB/DC and core DC plan models focus on providing retirement security, whereas traditional 401(k)-style plans focus on asset accumulation. DB/DC and Core DC plans can be open to new and existing employees, depending on plan structure and local state regulations. Both plan structures help provide more predictable costs and outcomes. When DB and DC plans work in tandem—as in a hybrid DB/DC plan—it can increase the probability that retirement income needs can be met.

The objective of a risk-managed DC plan is to provide employees with the means to build sufficient savings to provide income replacement in retirement that will maintain their standard of living. Participation in the plan should be mandatory, with low or no age restrictions. The investment structure should consist of a limited low-cost investment menu with a maximum of 15-20 options preselected by the employer that include asset allocation vehicles such as target date or life cycle funds. Individual investment advice should be available at no cost to the participant. Annuities or other lifetime income options should be part of the distribution of assets. Hybrid DB/DC and Core DC plan structures recognize the mobility of the modern workforce without penalizing the individual. According to statistics from the U. S. Department of Labor, the average tenure of a state government employee is a little over six years.

There were no questions, and Representative Cherry thanked Mr. Hiller for his presentation.

Announcements

Representative Cherry advised that no action or votes would be taken on the draft recommendations presented today. He said the Task Force will have one or two more meetings and hopes to present specific recommendations at the November 20 meeting.

Draft Recommendations From the Pew Center on the States and the Laura and John Arnold Foundation

Guest speakers were David Draine, Senior Researcher, Pew Center on the States (PEW), and Josh McGee, Vice President for Public Accountability Initiatives, Laura and John Arnold Foundation (LJAF). Copies of their slide presentation and Mr. Draine's prepared statement were provided.

Mr. Draine said that their goal is to provide a road map for the Task Force in deciding how to fix Kentucky's pension system. Rising contribution rates are threatening to crowd out needed public services, as funding levels of the Commonwealth's pension plans are projected to continue to drop. There are serious concerns about the future solvency of the main state plan, Kentucky Employees' Retirement System (KERS)-nonhazardous. If future investment returns dip below the projected 7.75 percent, the price tag goes up. There is no single answer that works for every state. PEW and LJAF offer a set of potential approaches to help put Kentucky on the right track. Comprehensive reform will need to achieve three things: a credible plan to close the funding gap over time; a new plan that is sustainable, affordable, and secure; and help Kentucky recruit and retain a talented public sector workforce.

The pension funding gap for Kentucky Retirement Systems (KRS), as well as the judicial and legislators' retirement plans, is more than $12.5 billion (as of FY 2011). The PEW and LJAF analysis is focused on the nonhazardous and hazardous plans of KERS and CERS (County Employees Retirement System), which represent 96 percent the total unfunded liability. Reforms, however, should also include the smaller plans.

The present value of employer contributions is estimated at $20.4 billion. Measured in 2013 dollars, the total amount employers are expected to put into Kentucky pensions through 2044 will total $35 billion. This takes into account that Kentucky's pension debt is expected to continue growing by 7.75 percent annually.

When Representative Cherry asked why the analysis is focusing solely on pension funding, to the exclusion of health insurance, Mr. Draine said Kentucky offers a relatively constrained health insurance benefit for retirees that is not as likely to present the runaway costs that make it a real risk in some other states.

Mr. Draine said that based on current policy, it is estimated that employer contribution rates for pension costs in the KERS-nonhazardous plan will rise to 41 percent of pay in 2038. This does not include retiree health care costs, which are projected to be more than 11 percent of pay for that plan by 2017. All numbers used in the analysis are based on the same assumptions used by KRS. Future investment growth will have a big impact on cost. Investment analysis suggests an average investment return of 7.75 percent, but returns are likely to vary in any given year. Under a pessimistic scenario—with investment return of only 6.25 percent over the next 30 years—the present value of employer contributions rises from $20.4 billion to $23 billion, and total employer contributions increase from $35 billion to $41 billion. If investment return is better than expected—with 9.25 percent investment return—costs drop, and the present value of employer contributions would be only $17.4 billion, with total employer contributions reduced to $28 billion. Investment assumptions matter but should not be exaggerated. Going from 9.25 percent return to 6.25 percent only increases cost by 32 percent. In FY 2015, Kentucky taxpayers are expected to set aside almost $900 million for the four main KRS pension plans. This is almost $200 million less than what the full actuarially appropriate contribution would require.

PEW and LJAF propose five major "buckets" of items to address the pension funding gap: change the contribution schedule, suspend the cost-of-living adjustment (COLA), issue bonds, change employee contribution policies, and tax retirement benefits.

Contribution schedule: For every year Kentucky delays making the full contribution toward pensions, the eventual cost increases. Full contributions to the KERS-nonhazardous plan are not scheduled until FY 2025. Making the full required contribution starting in 2014 would be the optimum funding policy; if this is not affordable, the Task Force should consider shortening the ramp-up to four or six years. Making the full contribution starting in 2014 would lower total employer costs by $700 million thru 2044 but would increase costs in the short term. Taxpayers would need to put approximately $200 million more into the KERS-nonhazardous plan in 2015. Local employers would not be affected because full contributions are being made to the CERS plans. The unfunded liability is currently being paid off over a 25-year period. Delaying the time at which Kentucky would reach full funding too far into the future would be unwise, but it may be necessary to reset the amortization period to 30 years. Total employer costs would go up by $3.25 billion, but KERS contributions in 2015 would be reduced by $44 million, and CERS by $44 million.

COLAs: The unfunded liability numbers and contribution rates under discussion do not include COLAs for retirees. State and local employers are not in a position to offer further COLAs until the funding gap is closed. The presumption of an annual COLA should be removed from Kentucky statutes, in lieu of the legislature having to suspend it every year. It is PEW's and LJAF's position that any COLA needs to be paid for immediately rather than allowing it to create an unfunded liability. It may be appropriate to give employees the opportunity to purchase COLAs by voluntarily increasing their plan contributions or accepting a reduced retirement benefit. How to offer COLAs to workers without imposing further costs on state and local employers would require a thorough analysis.

Bond issuance: Bonding is an issue that has been discussed and needs to be explored further. The KERS-nonhazardous plan is only 33.3 percent funded. Assuming the plan hits its investment target—and with projected future funding levels based on the current contribution schedule—the plan will have less than one year of benefit payments in assets on hand by 2020. KRS has identified a ratio of assets to annual benefit payments of 1.1 as a key solvency threshold. Issuing $780 million in bonds and putting the funds into the KERS-nonhazardous plan would keep that plan above the threshold, even under a pessimistic scenario.

Another potential reason for bonding would be to try to refinance Kentucky's pension debt. It would take $4.2 billion in bonds to fund Kentucky pension plans by two-thirds, with a little over $4 billion going into the four major plans and the remainder to the State Police Retirement System (SPRS), the Legislators Retirement Plan, and the Judicial Retirement Plan. The state budget office estimates that borrowing costs would be 6.2 percent for a taxable pension bond. KRS' investment analysis suggests that investments will have a long-term average return of 7.75 percent. This would suggest that bonding can save money. Based on these assumptions, issuing $780 million in bonds would reduce the value of employer contributions by $775 million, even after making the bond payments. If Kentucky issued $4.2 billion in bonds, the value of employer contributions would be reduced by $3.5 billion. Even if investment return was only 6.25 percent, taxpayers would come out ahead, but that does not mitigate the fact that issuing pension bonds poses a substantial risk to the state.

Ultimately, bonding to help the KERS-nonhazardous plan deal with its severe underfunding may be necessary. The wisdom of bonding a larger amount to refinance is dependent on the bonding interest rate. If borrowing costs were two percent, the likelihood of Kentucky coming out ahead is substantial, and the degree of risk is reduced. With borrowing costs at 4.5 percent, it becomes harder to balance benefits and cost. If Kentucky had to borrow at 6.2 percent, issuing billions in bonds would benefit taxpayers in some circumstances but could instead prove to be a major fiscal drag to the Commonwealth.

Employee contribution policies: It may be necessary for Kentucky to ask employees to pay more of the cost for their retirement benefits. The simplest approach is to increase all employee contributions equally by increasing employee contributions toward both pension and health insurance benefits by one percent. Assuming that the savings from reducing employer contributions to the insurance plans would go to pay for pension costs, the value of future employer contributions would be reduced by $2.5 billion. Asking Kentucky employees to contribute more toward retirement raises concerns with respect to contractual protections. However, retiree health benefits for workers hired after 2003 do not have the same level of protections. If everyone hired after 2003 had to pay a total of two percent of pay into the retiree health insurance plans and the employer savings went into the pension plan, the total impact on the value of future employer contributions for pensions would be $946 million. If interested in these approaches, the Task Force should consider all the legal ramifications.

Another possible contribution policy change would be to raise everyone's pension contribution rate by one percent and also increase the retiree health care contribution for employees hired before 2008 by one percent. This would ensure that all Kentucky state and local workers are making the same KRS contributions and would reduce the value of future employer contributions by almost $1.7 billion.

Rep. Cherry commented that past discussions of increased employee contributions have also included commensurate employee pay raises. He said he mentions this because everything should be considered at this point, even though this is not being proposed today by PEW and LJAF.

Tax retirement benefits: Retirement income below $41,110 and public pension benefits earned prior to 1998 are exempt from Kentucky income tax. The combined value of this tax credit in 2011 was $330 million. Lowering the exclusion to $25,000, while keeping the exclusion for public benefits earned before 1998, is estimated to bring in $50 million initially in FY 2014, with that figure growing each year. Directing the additional revenue to KRS could reduce the present value of future employer contributions by $780 million. Eliminating the tax exclusion, but keeping benefits earned before 1998 untaxed, would bring in $160 million and reduce the present value of employer costs by $2.5 billion. (Mr. Draine later clarified for Representative Graham that $160 million would be realized in the first year.) If the exclusion was lowered to $25,000 but benefits earned before 1998 became taxable, the initial revenue gain is estimated to be $220 million. If that revenue stream went into the pension system, it would reduce the present value of employer costs over time by $3.4 billion and help KRS reach full funding by 2038. The Task Force would need to consider the legal issues involved relative to taxing benefits earned before 1998.

Mr. Draine said there are other important issues for the Task Force to consider, in addition to the five major "bucket" items. The reciprocity provision in the Legislators' Retirement Plan has created outsized rewards for retiring policymakers. If the Task Force chooses to switch new legislators into the KRS plan, the point becomes moot, but if new legislators continue to join the Legislators Retirement Plan, rules should be put in place to ensure that the salary calculation is effective at properly allocating benefits and meeting the plan's policy objectives.

Double-dipping remains a concern in Kentucky. While there is no evidence that this is a driving factor in the funding problem, it is an indicator of design problems with the current system. Public employees who want to work—and who state and local governments continue to want to employ—are incentivized to retire before they want to end their careers. Currently, if a retiree returns to the workforce less than three months after separation from public employment, the retirement is nullified. PEW and LJAF propose extending that period to two years.

Late career salary increases—spiking—can boost individual benefits at the cost of all other pension plan participants. Although the prevalence of this practice is unclear, it is recommended that the employer be held responsible for paying the actuarial cost when a salary increase greater than 10 percent is given in the last five years of service.

Given the impact of KRS decisions on local communities, the Task Force should consider whether there may be appropriate ways to increase representation of cities and counties on the KRS Board. Secondly, although the disclosures KRS offers through financial reports and other documentation surpass those provided by pension plans in many states, those documents are not always easy for voters to navigate. As part of the transparency section of the KRS web site, it may be helpful to include a link that makes funding information and other useful data more directly available. It might also include sensitivity analysis showing the impact of the various actuarial assumptions, projected contributions and funding levels, and information regarding the unfunded liability and its impact on current spending.

PEW and LJAF presented three potential packages of reforms which they view as a necessary part of real, comprehensive reform.

Package 1:

Ramp up contribution rates over four years and make full actuarial contributions for every plan by FY 2017;

Reset the amortization period to pay off the unfunded liability by 2044;

Issue $780 million in bonds to help fund the KERS-nonhazardous plan;

Increase employee contributions by two percent for those hired before 2008 and one percent for those hired after 2008. This would represent a total of six percent of pay for pensions and one percent of pay for retiree health benefits for nonhazardous workers and nine percent/one percent for workers in the hazardous plans.

Reduce the $41,110 tax exclusion to $25,000 and tax benefits earned before 1998;

Eliminate automatic COLAs. If the legislature wants to offer COLAs before the pension plans are 100 percent funded, they should be paid for by employees;

Implement policy changes regarding double-dipping, spiking, and governance.

Implementing this package would reduce the present value of future employer contributions by $5.26 billion, reduce total employer costs by $8.8 billion, and keep the maximum contribution rate for the KERS-nonhazardous plan at 21 percent of payroll instead of 41 percent. In the short term, employer contributions in 2015 would be $71 million less. Responding to questions from Representative Cherry, Mr. Draine said that PEW and LJAF believe this first package would present the most savings and most broadly share costs. The tax changes are the most significant feature.

Package 2:

This package is similar to the first, with two key differences: the amortization schedule is not reset, and the ramp-up to full funding of the ARC occurs over six years rather than four. It would reduce the present value of employer contributions by $5.17 billion and reduce total employer costs by $10.7 billion. This package has a greater reduction in employer costs because the amortization schedule does not change. The maximum contribution rate for the KERS-nonhazardous plan would be 23 percent of pay, and employer contributions in 2015 would be reduced by $17 million.

Package 3:

This package does not include bonding or tax benefits earned before 1998. To compensate, it requires Kentucky to immediately begin paying the full ARC and eliminates the tax exclusion for retirement income. It resets the amortization period to 30 years, and changes to employee contributions, COLAs, double-dipping, and governance are the same as the other two packages. The projected reduction in the present value of employer contributions is $4.3 billion. Total employer costs would be reduced by $6.7 billion. The maximum employer contribution rate for the KERS-nonhazardous plan would go from 41 percent of pay to 25 percent of pay. In the short term, contributions in 2015 would drop by $14 million.

Mr. Draine said that even with the aforementioned reforms, Kentucky will still face a sizable pension debt. State and local employers will need to put more than $24 billion into Kentucky pensions through 2044, both to pay off the remaining unfunded liability and to fund new benefits for current employees. However, by reducing employer contribution rates to more manageable levels, the reforms should make the remaining burden bearable to taxpayers. The problem is solvable, but if Kentucky continues to delay, it could become an unmanageable crisis.

Representative Yonts said he does not think it would be a good solution to increase contributions for employees. They have gone several years without pay raises and should not be hit any harder. It might be better to create a fourth package that would combine various proposals from the other three. He suggested a possible compromise by reducing the income tax exclusion from $41,110 to $32,000 instead of $25,000, and by considering changes to income tax deductions that would not be directed solely at one group. He said elimination of double-dipping is a good idea. New revenue streams would need to be bonded to ensure their dedication to pension funding. The Task Force also needs to coordinate with the Governor's Blue Ribbon Commission on Tax Reform.

Mr. Draine said that PEW and LJAF would be happy to include other ideas in their proposals. Kentucky needs to be able to recruit and retain a talented public sector workforce, and the lack of wage increases for employees is troubling. The problem is to find ways to put money into the system in a way that fairly shares the burden. Revenue will also need to come from sources other than those that have been proposed.

When Senator Higdon asked whether the recommended proposals will work, Mr. Draine said that closing the funding gap without fixing things going forward would be incomplete. The proposals offered are ways to make the burdensome pension gap more manageable and able to be handled by Kentucky employers. Mr. McGee added that the answer is yes, as long as the state has the fiscal discipline to stick to the plan; if not, none of the plans will be affordable or sustainable.

When Representative Montell asked whether increasing the minimum retirement age had been considered, Mr. McGee said this has been looked at across the country, but changing the retirement age would not produce significant savings and would be subject to constitutional and contractual challenges.

Senator Hornback asked about removal of the retiree health insurance dependent subsidy and its potential impact. William Thielen, KRS Executive Director, said that actuaries are currently evaluating the impact on the employer contribution and unfunded liability but that it should not have a major impact. It will increase the premium cost for only about 5,400 under-65 retirees who elect dependent coverage.

Senator Hornback asked whether it would be fair or realistic to justify bonding based on a 7.75 percent assumed rate of investment return, considering the condition of the economy and that the assumed rate has not been realized over the past 10 years. Mr. Draine said that the borrowing rate is the more useful number for the Task Force to consider in deciding whether bonding makes sense. A rate of two percent leaves room for error. As the borrowing rate approaches the assumed rate of return—6.2 percent, for example—there are many ways things can go wrong. Even with risk, however, bonding to help fund the KERS-nonhazardous plan in the short term may be worthwhile.

When the issue was raised by Representative Graham, Representative Cherry discussed the ramifications of double-dipping and how it was addressed in House Bill 1, retirement legislation enacted in the 2008 special session.

When Representative Hall questioned the 6.2 percent projected borrowing rate for bonding, Mr. McGee said that rate was projected by Kentucky's state budget office. The uncertainty surrounding pension obligation bonds in the market place makes it very difficult to speculate on bonding rates. When Senator Ridley asked whether bonds could be nontaxable, Mr. Draine explained that under IRS rules, pension obligation bonds are not tax exempt.

Mr. Draine said reform that only addresses the unfunded liability would be incomplete. Kentucky's current pension system is heavily backloaded, meaning that workers earn most of their benefits late in their careers. This can create an incentive for mid-career workers to work longer, which may help the state retain experienced workers, but it also means that employees' retirement security is dependent on working for the same public entity for a majority of their working life. Traditional pension plans can also provide an incentive for experienced workers to leave once they reach retirement age. Kentucky's pension plan has led to workers retiring even though they still want to work and their employer still wants to employ them.

Cash balance and stacked hybrid pension plans share risk between workers and taxpayers, offer a portable benefit that does not have the level of backloading of Kentucky's current plan, and can put workers on a sustainable retirement path. Both plan types represent sustainable, affordable, and secure retirement options that should merit serious consideration as the right choice for Kentucky going forward.

A cash balance plan is a type of DB retirement plan that pairs the predictable, transparent cost of individual retirement accounts with many of the key features of a traditional pension, including a guaranteed minimum benefit and lifetime income. The value of the cash balance account is based on contributions and investment returns, just as in a defined contribution plan, but workers are guaranteed a minimum return. This provides a floor for benefits and helps insulate workers against market losses. Workers are also able to convert their retirement savings into an annuity—lifetime income in the form of a fixed monthly payment—to ensure that they will not outlive their retirement savings. Cash balance plans shift a manageable amount of risk from workers to state and local governments while offering an important guarantee of a certain benefit level. The Texas Municipal Retirement System has been offering this type of plan for years. In 2003, Nebraska instituted a cash balance plan for state workers. More recently, Louisiana and Kansas passed legislation instituting cash balance plans for new hires. The cash balance plan proposed by PEW and LJAF is designed so that employer and employee costs would match the current Tier 3 plan of KRS.

A cash balance plan is not risk free for the taxpayer, but the risks are manageable. If returns over the next 30 years are 6.25 percent instead of 7.75 percent, costs of the DB plan grow by 50 percent. With a cash balance plan, the increase would be only 19 percent. An analysis of projected investment return suggests that the guaranteed return has a 70 percent chance of being fully funded by the 25 percent of excess return that goes to the plan.

A stacked hybrid plan is simply a combination of a traditional DB pension plan and a DC plan. The traditional pension is usually not as generous as a stand-alone DB plan, but the employee also has a retirement account that grows from contributions and investment returns. While the traditional pension still faces investment risk, its smaller size means the risk is more manageable. The traditional pension may still be backloaded, but the individual retirement account means a worker who switches careers will have a benefit that is portable. Rhode Island switched to a hybrid plan in late 2011. Other recent adopters of such a plan include Virginia and the city of Atlanta, Georgia. Ohio and Oregon instituted this type of plan in the early 2000s.

Mr. Draine discussed in greater detail the cash balance and stacked hybrid plans designed by PEW and LJAF and illustrated on charts in their slide presentation. He stated that both cash balance and hybrid plans can offer a core retirement benefit. They can have other features built in, such as disability benefits or spousal benefits. Either plan type can be a good option for Kentucky. While they have some differences, the similarities are more important. Both plans share risk between workers and taxpayers, offer a real retirement benefit that workers cannot outlive, and provide a portable benefit for workers who change jobs. Both cash balance and stacked hybrid plans offer more predictable, stable, and transparent costs to employers.

When Representative Cherry asked why Kentucky should adopt one of these two plans, Mr. McGee said the question is about transparency and how much cost uncertainty the state can bear. Changes in assumptions for DB plans can lead to big changes in cost, which leads to a lack of transparency. Both plans would provide additional transparency and predictability of cost. Also, a new plan might be in order because of the degree of backloading in the current retirement plan, which puts workers on an insecure retirement savings path through much of their working life.

When Representative Montell asked why the proposals do not include a 401(k) type plan as an option, Mr. Draine said that a well designed DC, or 401(k), plan that is sufficiently funded can offer a secure retirement benefit. McGee added that DC plans are relatively well understood. The proposals described today highlight some of the risk and cost-sharing plans that might be right for Kentucky but generally are not as well understood.

When Senator Wilson asked about employee contributions in the KERS-nonhazardous plan under a cash balance arrangement, Mr. McGee explained that they would be limited to four percent. An additional DC plan could be offered to provide elective deferrals. The IRS feels that a DC plan is the proper vehicle for elective deferrals.

Representative Graham expressed concern about the initial impact on KRS and on state employees at the lower end of the pay scale if Kentucky moves to a cash balance or stacked hybrid plan. Mr. McGee concurred that employees have borne much of the burden. He said that if there is interest in these plans, KRS would have to examine the impact. A cash balance system could be structured as another tier inside the pension system. Since the money would still go to KRS and be managed by KRS, the impact would be negligible except for actual implementation. It would also improve retirement security for employees at the bottom of the income distribution. The state's significant unfunded liability puts huge pressure on employee benefits and salaries. Anything that leads to a system that pays for itself with more certainty and better ensures that promised benefits will be paid for is good for employees across the board.

Mr. Draine said that all of the proposed plans have approximately the same projected employer contribution cost. Switching to a more even wealth accrual—a less backloaded plan—is not going to be as beneficial to those who spend their entire careers with state or local government, but it can be a much better option for someone who switches careers once or twice. There are important distributional consequences across the workforce, both in terms of ensuring that a broader cross-section of state and local workers have retirement adequacy and that the benefit is attractive and can help the state recruit and retain talented workers. Mr. McGee said that workers at the bottom of the income distribution would benefit from a cash balance or stacked hybrid system, since they seem to have a higher probability of switching jobs at least once in their career.

Representative Cherry said he appreciates how KRS has cooperated throughout the process with PEW and LJAF and LRC staff. Mr. Thielen said that KRS has tried to provide as much information as possible to assist in the effort but that KRS staff did not see the proposals until today. The actuary is working on general concepts and ideas, such as the impact of shortening the phase-in period and suspending COLAs. Any infusion of additional funds would be most welcome, especially for the KERS-nonhazardous plan. Suspension of COLAs that are not prefunded would be consistent with the position adopted by the KRS Board. KRS will have to examine the proposals presented today before giving a specific response to the Task Force.

Prompted by questions from Representative Cherry, Senator Higdon, and Representative Montell, discussion followed regarding how the ARC would be affected by resetting the amortization period to 30 years, the state tax exclusion for public and private retirement benefits, and the inviolable contract with respect to retirement benefits earned before 1998. At request of the Chair, Brad Gross, LRC staff, explained in greater detail the current $41,110 state tax exclusion, noting that the pre-1998 exemption does not apply to private pension benefits. Representative Cherry said his preference would be to make public pension benefits earned before 1998 subject to state tax.

Senator Thayer said the Task Force has tough decisions to make. He believes there can be broad agreement in some areas, particularly on recommendations relating to governance, transparency, and legislative reciprocity. The most difficult decision faced by the Task Force will probably be how to close the funding gap. Bonding and tax exemption are difficult issues, about which he is not enthused.

The Task Force is charged with trying to find a solution to save retirement benefits for current retirees and employees and also design a new system for new employees. However, the Task Force must also be cognizant of the financial role of the taxpayers who fund public pensions—many of who have not had raises in a long time, are unemployed or under-employed, are paying more for their health care as their incomes decrease, and whose employers are no longer contributing to their private pension accounts. He said that finding agreement among the members regarding the recommendations that have been proposed is only the initial step; the bigger challenge begins in January when the General Assembly considers legislation proposed by the Task Force.

Representative Cherry emphasized that the task force meetings are not the last chance for input. He said there will be ample opportunity in the 2013 legislation session for further testimony from citizens and organizations.

With business concluded, the meeting adjourned at 3:27 p.m.

TASK FORCE ON STUDENT ACCESS TO TECHNOLOGY

Minutes of the 4th Meeting of the 2012 Interim

October 22, 2012

Call to Order and Roll Call

The 4th meeting of the Task Force on Student Access to Technology was held on Monday, October 22, 2012, at 1:00 p.m., in Room 149 of the Capitol Annex. Senator Katie Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were

Members: Senator Katie Stine, Presiding Chair; Representative Carl Rollins II, Co-Chair; Senators Jared Carpenter, Dennis Parrett, and Mike Wilson; Representatives John "Bam" Carney, Derrick Graham, and Ruth Ann Palumbo.

Guests: David Myslinski, Deputy Director, Digital Learning Now; David Stevenson, Vice President for Government Relations, Wireless Generation; and Holly Sagues, Chief Policy Officer, Florida Virtual School.

Guest List: Clyde Caudill, JCPS, KASA; Rhonda Caldwell, KASA; and Marty White, CLC.

LRC Staff: Jo Carole Ellis, Sarah Kidder, Perry Papka, and Ashlee McDonald.

Approval of Minutes

Senator Stine moved to approve the minutes of the September 25, 2012, meeting, and Senator Wilson seconded the motion. The motion carried.

Advancements in Digital Learning and Education Technology

David Myslinski, Deputy Director, Digital Learning Now, explained the 10 elements of high quality digital learning. The elements are organized around three general areas: customization and success for all students; a robust offering of high quality options; and infrastructure.

Mr. Myslinski stated that digital learning is a way—because education budgets are limited—to leverage the resources the schools have now to better serve students. Digital learning allows teachers to have more one-on-one time with students and enhances individualized learning.

Digital learning is facilitated by technology that gives students some element of control over time, place, path, and pace. Learning is no longer restricted within the walls of the classroom, allowing students the ability to learn anywhere and everywhere. Interactive and adaptive software allows students to learn at their own pace and adjusts the instruction to focus more on their areas needing assistance.

Mr. Myslinski explained that the Foundation for Excellence in Education developed a Roadmap for Reform to help state leaders and school districts adopt policies to transform into digital learning. To help state leaders get started on the road to reform, the Foundation for Excellence assessed each state's alignment to the 72 explicit measures that, when taken as a whole, will transform education. The report card uses three levels of attainment: achieved, partial, and not yet. The first report card was released in December 2011. The next report card will focus more on the 10 elements of high quality digital learning.

Mr. Myslinski explained that, within the 10 elements of high quality digital learning, there are two elements that should be highlighted: student access and funding. These elements drive each other. The more funding that is obtained, the more access the students and teachers will have. Another key element, although difficult for some states, is infrastructure. Certain infrastructure is needed to support digital learning.

Funding flexibility allows school districts to initiate the transition to digital learning. It also ensures digital learning does not become an additional layer of education but rather a conscious replacement for the current system.

David Stevenson, Vice President for Government Relations, Wireless Generation, stated that Kentucky is a national leader on education reform and has been for a number of years. Wireless Generation was founded in 2000 to work on issues of assessment and instruction and is focused on getting children ready for third grade reading. Wireless Generation is now part of a new company called Amplify, which launched in the summer of 2012. It is a subsidiary of News Corporation and is a major new investment in changing the way education works.

As part of Amplify, Mr. Stevenson stated that Wireless Generation is making two major investments on the long-term horizon. One of the investments is on a digital learning platform for middle school. Partnering with AT&T, the companies are creating an Android-based tablet device that includes a data management layer for instructional data. It also includes bundled and pooled connectivity so that those students who do not have an internet connection at home can still have access to the device. Finally, it has the option of a lease or subscription so that the school districts can budget for maintenance and service.

The other investment is building a digital curriculum for this generation of learners, to include heavy gamification and social networking elements. When incorporating the same aspects of using a computer that the students already uses, such as games and social networking, the students are more likely to show interest.

Mr. Stevenson discussed a program that Wireless Generation has created called "Librariana." It is set up so that students using it feel like they are in a 3-D gamer's world, but they are learning throughout the process. The students are given tasks in the 3-D world that are lessons they must complete to "conquer" and complete the level. The students have responded very well to this type of learning system.

Mr. Stevenson said that this type of digital learning allows real-time feedback so that students can correct their work as it is done, and it gives them the chance to meet with the teacher to receive timely and positive feedback.

Holly Sagues, Chief Policy Office, Florida Virtual School, explained that the Florida Virtual School was created in 1996 by sharing a "Break the Mold" school grant with two school districts to develop the Florida High School (FHS) project. Following an intensive six-month period of planning and development, FHS officially launched with seven staff members in 1997.

Ms. Sagues stated that Florida Virtual School (FLVS) began operating as a recurring line item in Florida's legislative budget, and evolved into being fully funded via the Florida Education Finance Program (FEFP), which is based completely upon performance of the students and their completion of their courses.

FLVS offers more than 120 courses that include middle school, regular, and honors high school courses and 16 Advanced Placement courses for Kindergarten-12th grade. These can be taken as half or whole credit courses by students that need to catch up on credits or students who want to excel in their credits.

Ms. Sagues defined an online course as a formal education program involving student-teacher interaction in which a student learns mostly through online delivery of content and instruction over the internet, with some element of student control over time, place, path, or pace, where the student and teacher are separated by time, space, or both.

Responding to Senator Parrett, Ms. Sagues stated that, of 303,000 part-time FLVS students, 65 percent are public school students, 20 percent to 25 percent are homeschooled, and 10 percent to 15 percent are private school students. FLVS is an accredited school under AdvancED, a regional accrediting agency.

Responding to Senator Wilson, Ms. Sagues said that FLVS has developed a lot of its own curriculum; however, it licenses and uses other curriculum as well. FLVS also licenses its curriculum for use in other states.

Responding to Senator Wilson, Mr. Stevenson said that there is a bundle tablet offering that includes the Android device, the AT&T connectivity and the data management platform. The curriculum is cross-platformed. Both of these are adjacent and complimentary initiatives. Mr. Stevenson stated that in Wireless Generation's research, standing up and maintaining the technology in school is quite challenging, given that the school is responsible for security and data management.

Responding to Representative Carney regarding snow days, Ms. Sagues said that FLVS has a program for hospital/home-bound students, and districts have the option to contract with FLVS on a temporary basis.

Responding to Representative Rollins regarding the funding formula and growth, Ms. Sagues explained that the formula enabled them to not have a cap on the number of registrations; therefore, more students enrolled and FLVS received more funding. Ms. Sagues also explained that there are 315 virtual learning labs in Florida. The school supplies all the equipment and the facilitator to the lab, and FLVS provides the instruction and the curriculum.

Responding to Senator Stine's question regarding coordination between ACT and SAT exam scores and FLVS curriculum, Ms. Sagues said that FLVS does track correlation between the exams and the end-of-course exams, but they have not graduated a full class yet to have complete data.

Responding to Senator Parrett, Ms. Sagues explained that the grade point average (GPA) levels of the FLVS and public schools were relatively similar with the average GPA of a FLVS student being 2.1.

Responding to Representative Carney in regards to funding, Ms. Sagues explained that all virtual school funding is performance based and will bring in approximately $5,200 per pupil. For the students that do not successfully complete the course, it is necessary to discount the $5,200.

Responding to Representative Graham regarding the academic integrity, Ms. Sagues said that the courses are designed for authentic assessment and project-based learning. All of the FLVS courses are integrated in a program called Turnitin.com. This website will review the internet to make sure that nothing in the paper or assignment is plagiarized or has been turned in by a previous student. The FLVS students are required to do a discussion-based assessment to ensure that the students understand the concepts thoroughly. FLVS also has an academic integrity team that will investigate any issues.

Responding to Senator Parrett's question about access to the devices, Mr. Stevenson said there are many options that Wireless Generation is considering including a leasing option and a bond issue. Ms. Sagues explained that at FLVS, if a student does not have access to the internet or a device, FLVS is required to provide it. Mr. Stevenson added that, due to the partnership with AT&T, they are able to spread mobile bandwidth to reach more students and provide internet connectivity.

Senator Stine explained that, at the September 25 meeting, the committee began discussing task force recommendations. The yellow sheet in the committee folders at today's meeting had the revised recommendations based on suggestions that were made at the September 25 meeting. The second bullet contained changes, and the two underlined bullets were newly added.

The committee viewed the video "Fox News Reporting: Fixing Our Schools," which highlighted digital and online education initiatives in Arizona, Florida, New York, and North Carolina.

Adjournment

The next meeting is scheduled for November 27, 2012, at 10:00 a.m.

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

TASK FORCE ON THE UNIFIED JUVENILE CODE

Minutes of the 4th Meeting of the 2012 Interim

October 25, 2012

Call to Order and Roll Call

The 4th meeting of the Task Force on the Unified Juvenile Code was held on Thursday, October 25, 2012, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Katie Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Harry L. Berry, Teresa James, Lisa P. Jones, Robert D. Neace, Mary C. Noble, Pamela Priddy, Peter Schuler, and Steve Trimble.

Guests: David D'Amora, Council of State Governments; Sarah Brown, National Conference of State Legislatures; Jeanette Moll, Texas Public Policy Foundation; Doreen Cavanaugh, Georgetown University Public Policy Institute; Marissa Castellanos, Catholic Charities; and Marylee Underwood, Kentucky Association of Sexual Assault Programs.

LRC Staff: Joanna Decker, Matt Trebelhorn, Jonathan Scott, Mike Clark, and Rebecca Crawley.

The minutes of the September 26, 2012 meeting were approved without objection.

National Perspectives on Juvenile Justice

David D'Amora, Director of National Initiatives, Council of State Governments, discussed various strategies for addressing juvenile status offenders across the country. Status offenses are acts that are not considered criminal when committed by adults, but carry juvenile court sanctions for youth because of their legal status as minors, including habitual truancy, running away, curfew violations, and underage liquor law violations. The Juvenile Justice Delinquency Prevention Act (JJDPA) provides uniform standards of care and custody for status offenders, and deinstitutionalization of status offenders (DSO) is one of the core requirements. DSO states that status offenders and abused and neglected youth may not be placed in secured detention or locked confinement, and ensures the offenders and their families receive family and community-based services to address their behavior problems. The Valid Court Order Exception (VCO) allows judicial discretion to place status offenders in detention if they violate the court order. In 2007, Kentucky, Texas and Washington accounted for 60 percent of the VCO exceptions invoked. He noted Jefferson County, Kentucky and Clark County, Washington, have successful truancy diversion programs. Programs in Florida, New York and Connecticut which mandate pre-court diversion and prevention services have seen significant reductions in the number of status offenders referred to the court system and in the number of juvenile reoffenders. He suggested these individuals need to be tracked longer to see if they become adult offenders.

Mr. D'Amora discussed the successful use of evidence-based practices for status offenders, including risk/needs assessments, family involvement/assessment programs, and interventions designed to address youth with antisocial behavior, low academic achievement, mental or cognitive disorders, and mental retardation, family violence and drug abuse. These intervention programs have reduced recidivism, new offending by siblings, days spent in confinement, delinquency and criminal referrals, and improved academic performance, family cohesion and youth functioning. The length of the therapy is based on the risk level of the offender, with most programs lasting between six and twelve months. Some states underwrite the cost of intervention programs and he agreed to provide more information to the members.

Justice Noble asked which risk/needs assessment tool has been most successful, and agreed the key to successful services hinges on a correct assessment of the offender. Mr. D'Amora said CSG policy prohibits him from recommending a specific assessment tool, because some are open source and others are proprietary. He said Ed LaTessa and Brian Lovens with the University of Cincinnati are both experts on assessment systems and he will ask them to contact the task force with more detailed information. He noted treatment response can change during the course of the intervention, which requires flexibility to revise the treatment plan.

Ms. Priddy said most risk/needs assessment tools do not include a family assessment component which is very important to a successful outcome, and asked Mr. D'Amora for additional information on programs that include family interventions. He agreed to provide the information to the task force.

Mr. Schuler said Kentucky is second in the nation for detaining status offenders. He said the Administrative Office of the Courts form of the VCO is very strict, and offenders can be detained for minor infractions like chewing gum and smoking. He wondered if it is ever appropriate to send a status offender to secured detention. Mr. D'Amora said sometimes an offender is so out of control that detention is needed to protect public safety, but that one cannot apply the wrong response and hope to get the right outcome. He said Kentucky is spending millions of dollars on secured detention for the very small percentage of status offenders who are violent, and detaining many more who do not threaten public safety.

Sarah Brown, Criminal Justice Program Director, National Conference of State Legislatures, reviewed legislative trends and approaches in juvenile justice reform. She said the juvenile justice system must balance the interests of rehabilitation, accountability and public safety, while protecting the rights of youth. Juvenile justice policies across the country are changing with emphasis on public safety, positive outcomes, and increased funding for prevention programs. Trends over the past decade include distinguishing juvenile needs from adults, changes in due process and procedures for juveniles, developing community-based preventions and inventions including evidence-based practices and truancy prevention, addressing the mental health needs of juvenile offenders, detention and corrections reform; disproportionate minority contact, and improving reentry and aftercare programs. Ms. Brown said the MacArthur Foundation Models for Change has invested over $100 million to accelerate juvenile justice system reforms which have been implemented in Pennsylvania, Illinois, Louisiana and Washington, Ohio, Arkansas and Georgia.

In response to a question from Senator Stine about the shift from a rehabilitative model for juveniles to a criminal model during the last two decades, Ms. Brown said an increase in youth violence convinced state legislatures the criminal model was needed. But a decreasing youth crime rate and a poor economy has forced states to reconsider detention programs for status offenders. States are now moving toward prevention and intervention programs and services for families, which are more cost effective and produce better outcomes.

Jeanette Moll, Policy Analyst, Texas Public Policy Foundation (TPPF), reviewed changes in the Texas juvenile justice system since 2007, resulting in a historic decline in the youth incarceration rate, a decrease in youth violence rates, and increased safety for those youth in detention who now have access to more effective programs. These reforms have led to more cost efficient and effective juvenile programs which are community-based and offer programs closer to families, churches and other sources of community support. While detention is still necessary to protect public safety, Texas moved toward community-based programs, saving the state millions of dollars and providing better results for offenders and their families. Zero tolerance programs in schools have proven ineffective and a tiered model of school discipline has been implemented to produce safer schools and higher graduation rates.

The Texas Public Policy Foundation is working with other states to reform their juvenile justice systems based on the success of the Texas model. The foundation encourages implementation of community-based programming, risk/need assessment of offenders to produce better outcomes, juvenile probation programs which are more cost-effective than detention, evidence-based programming which is proven to reduce the risk of criminal behavior, recognition that status offenders are not adults and are more likely to be physically or sexually assaulted in adult institutions, and use of performance financial incentives encourages counties to keep status offenders in the community rather than committing them to a state facility. Almost every state is looking for better outcomes and increased cost-effectiveness for juvenile offenders. Reforms in Texas have reduced populations in state facilities and permitted closing three facilities at a savings of $100 million, increased accountability and reduced delinquency rates. New York, Georgia, Virginia, Colorado, Illinois, and Ohio have implemented juvenile justice reforms. A majority of the states have implemented CHINS systems that direct juvenile offenders toward child welfare services. About half of the states prohibit the use of the VCO exception.

Financial Mapping

Doreen Cavanaugh, Research Associate Professor, Georgetown University Public Policy Institute, congratulated Kentucky on being one of twelve states to receive a three year award for SAMHSA/CSAT Substance Abuse Treatment Enhancement and Dissemination (SAT-ED) for infrastructure development for youth with co-occurring substance use/mental health disorders. Dr. Cavanaugh said financial mapping is a process of identifying public funds expended on a yearly basis to address certain issues at the federal, state, and local level, which can be used to develop a comprehensive financial plan to coordinate funds in the most effective and efficient way to assure the provision of coordinated services and supports. She recommended the task force consider this process to maximize resources to address co-occurring mental health/substance use disorders in youth, with a goal of reducing involvement with the juvenile justice system.

Federal funding may come from juvenile justice, labor, housing, education, child welfare, entitlements, block grants, categorical funding, discretionary grants, demonstration grants, and research funding. Medicaid dollars may be maximized through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program and CHIPS (Children's Health Insurance Program) for early diagnosis and treatment of children with substance use disorders. She encouraged states to expand block grant funding to provide substance abuse and mental health services through the juvenile justice system. She reviewed several funding sources in the juvenile justice system and the child welfare system which could be coordinated to maximize funds.

Working Group Reports

Senator Stine asked the members to read the working group reports and be ready to discuss them at the November 13 meeting of the task force.

The meeting adjourned at 4:00 p.m.

TASK FORCE ON MIDDLE SCHOOL INTERSCHOLASTIC ATHLETICS

Minutes of the 4th Meeting of the 2012 Interim

October 15, 2012

Call to Order and Roll Call

The 4th meeting of the Task Force on Middle School Interscholastic Athletics was held on Monday, October 15, 2012, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Carl Rollins II, Co-Chair; Senator Joe Bowen, Representatives Tom Burch, Keith Hall, and Joni L. Jenkins; Kevin Brown, Adam Lantman, Barry Lee, Elizabeth Miles, Greg E. Mitchell, Rita Muratalla, Wilson Sears, Dan Seum, Jr., Julian Tackett, Dan Volpe, and Jerry Young.

Legislative Guest: Representative Dennis Horlander.

Guest: Stan Steidel, Athletics Director of Holmes High School, Covington.

LRC Staff: Janet Stevens, Bryce Amburgey, Greg Hager, and Stella Mountain.

Approval of the Minutes from September 17, 2012, Meeting

Upon motion made by Senator Bowen and second by Representative Rollins, the minutes of the September 17, 2012, meeting were approved by voice vote, without objection.

Representative Rollins said that a compilation of recommendations received from members will be handed out and discussed after Mr. Tackett's presentation. The co-chairs will create a draft of the report for consideration at the November meeting.

Presentation: Current Practices Regarding the Oversight and Management of Middle School Athletics

Mr. Tackett said that key points in the Kentucky High School Athletic Association (KHSAA) mission statement are participation, safety, and sportsmanship. KHSAA is to enhance the educational experience of the students. KHSAA was formed almost 100 years ago and has an 18 member Board of Directors, of which 14 are school personnel and 4 are appointed by the Kentucky Board of Education to represent the business and parental communities. Member school principals are the primary contact persons at the school level. Five people are directly charged with enforcement through education.

KHSAA is a self-supporting nonprofit 501(c)3 organization and receives no general fund appropriation. KHSAA receives nearly $300,000 in dues from its member high schools, of which the majority is used to fund the catastrophic insurance program for student-athletes and insurance for KHSAA events at all levels. The KHSAA dues are among the lowest in the country. The remaining receipts are generated through ticket sales and corporate funding.

KHSAA is audited annually and its finances are transparent. Audits are published on its Web site. KHSAA requires and publishes financial reports from all of its events, including the district and regional tournaments in the team sports. Transparency allows for complete membership understanding and cooperation with undertakings and objectives.

Mr. Tackett mentioned some of the several statutes that apply to KHSAA. KRS 156.070(2) requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics. KRS 158.030 defines a common school as an elementary or secondary school supported in whole or in part by public taxation. This includes middle schools. Non-public schools are allowed to join KHSAA as long as they meet certain criteria, as defined in KRS 156.160(3). KRS 157.350(5) requires that if a school maintains a basketball team for boys, it must also maintain a team for girls. KRS 161.220(4) includes KHSAA as an entity in the Kentucky Teachers' Retirement System. KRS 160.445, enacted only recently, requires a sports safety course for all coaches of interscholastic sports at the high school and middle school level. Completion of the course by high school coaches can be tracked, and tracking for middle schools can be added. KRS 156.070 also defines requirements for coaches for interscholastic sports. According to Mr. Tackett, this statute contains outdated wording related to participation by grade 7 and 8 students and should be revised.

KHSAA is the designated agency of KBE as per 702 KAR 7:065. This regulation primarily covers high schools.

Mr. Tackett explained the KHSAA organizational structure: the General Assembly is the top level, followed by KBE, the KHSAA Board of Control, the Commissioner hired by the Board of Control, and the member schools. He stressed the importance of this structure. The school principal has ultimate responsibility and authority within the program. Schools may designate an individual, known as the Designated Rep, to assist with forms and other paperwork.

Amendments to the KHSAA constitution and bylaws are discussed annually. Proposed changes are discussed and voted on at the Annual Meeting of Schools each fall. All changes to the KHSAA constitution, bylaws, and due process are considered annually by KBE as part of 702 KAR 7:065. KBE has implemented other reporting requirements for KHSAA within this regulation.

To join KHSAA, schools must be accredited by KDE or be approved as a member of the Kentucky Non-Public Schools Commission. A school has to be a member of KHSAA to be able to play KHSAA member schools. This ensures that all schools play by the same rules. Member schools agree to abide by the rules set out in the membership agreement. Included in the agreement is compliance with all medical and safety recommendations, including heat and humidity testing, wrestling body fat measurements, and other directives that may be implemented from authoritative regulatory agencies.

KHSAA membership is comprised of six different categories of schools. Most schools are district operated general or multi-program schools. Membership this year totals 280 schools.

The KHSAA Title IX compliance program was started in 1999-2000. On-site visits were made to all high school campuses during the first five years. KHSAA has spent approximately $500,000 implementing and maintaining the program. A "Re-Visit Program" was started in 2004-2005, and a third visit to schools is starting this year.

As required by KRS 156.070, all coaches must be 21 years or older and must submit to a background check. Less than half of all coaches are the typical teacher coach (Level 1); most are paraprofessionals or non-teacher coaches (Level 2). Hiring must be done through approved board policy for hiring of all positions. All coaches must complete the Sports Safety Course, which can be completed online.

KHSAA follows advice and recommendations made by the Committee on Physical Education and Medical Aspects of Sports of the Kentucky Medical Association (KMA) and the Sports Medicine Advisory Committee (SMAC) of the National Federation of State High School Associations. Most recommendations are implemented immediately. Examples of sports medicine programs are wrestling weight management, heat index monitoring, restrictions on consecutive days of multiple contact football practice, and practice and competition limits. KMA and SMAC may identify issues such as "you need to immediately" or "you need to consider." KMA's initial concerns led to the development of limitations of seasons and restrictions on practice and play. The KMA committee developed the Sports Safety Course for coaches cooperatively with KHSAA.

KHSAA Bylaw 25 defines start of practice, start of play, length of seasons, and length of games. It contains minimal exceptions and ensures that student-athletes participate for enjoyment but not too much for it to be unhealthy.

702 KAR 7:065 requires emphasis and education for high schools concerning Title IX. There is no such education requirement for middle schools at this time; however, districts are subject to Title IX provisions. Some middle school requirements, such as the sports safety course, are already in statute, but no governing body is designated.

Mr. Tackett said that Illinois has had a long-standing, separate organization for elementary and middle schools athletics; Tennessee has had the most recent change in model and governance of middle schools athletics 18 years ago. Illinois and Tennessee are different models. North Carolina is doing a study similar to the Kentucky Middle School Interscholastic Athletics Task Force.

In conclusion, Mr. Tackett said that KHSAA has 13 full-time staff members and relies on institutional control. KHSAA is not trying to "take over" anything but is available to provide information and to provide a service if it is decided that it is needed. Any rule without a penalty, and without someone enforcing the rule, is merely a suggestion.

Senator Wilson said that KHSAA receives $300,000 from member dues and receives no general fund appropriations. In response to a question from Senator Wilson, Mr. Tackett said KHSAA receives no funding from KDE.

In response to a question from Senator Wilson, Mr. Tackett said that KHSAA employees are participants in the Kentucky Teachers' Retirement System.

In response to a question from Senator Wilson, Mr. Tackett said that the online safety training course is available to the general public. KHSAA only tracks attendance of coaches at the high school level. It would cost to add tracking of middle school coaches.

In response to a question from Senator Wilson, Mr. Tackett said that the local school district and the Office of Civil Rights have enforcement authority for Title IX. KDE directed KHSAA through an unfunded mandate to help with compliance.

In response to a question from Senator Bowen, Mr. Tackett said that KHSAA's total budget is approximately $3.5 million. Approximately $1.5 million is generated from boys and girls basketball.

In response to a question from Senator Bowen, Mr. Tackett said that the early start of the high school football season and practice poses a safety concern. Teams at the high school level play too early and too often. Less than half the states have a full 4 weeks of practice before the first game.

In response to a question from Senator Bowen, Mr. Tackett said that manufacturers are discussing reducing the number of bars on facemasks of football helmets.

Representative Hall introduced Stan Steidel, Athletic Director of Holmes High School, Covington. In response to questions from Representative Hall, Mr. Tackett said that no corrective action has ever been taken against a middle school or elementary school by KHSAA. He said there needs to be some kind of overarching control for middle schools to ensure that everybody is playing by the same rules. What is missing is someone with overall authority. The infrastructure of KHSAA is already in place.

In response to a question from Mr. Lee, Mr. Tackett said that KHSAA dues range from $800 to $1,400, depending on the size of the school.

In response to questions from Representative Burch, Mr. Tackett said that injuries occurring at games are not recorded. Recognized national data are available at Ohio State University, but the causes of an injury can be a protected medical record.

Senator Wilson said that when his son was injured at a high school game, an accident report had to be filed.

Mr. Sears said that KHSAA does an outstanding job. In response to questions from Mr. Sears, Mr. Tackett said that the benchmark for the number of games played is what other states allow. Kentucky far exceeds the number of baseball, softball, and basketball games played compared to states surrounding Kentucky. In baseball, a player might not be allowed to pitch because he has exceeded the school pitching limit, but can still pitch in a local league. There is no overarching control. Schools have not been able to restrict play outside high school teams. The number of high school football games is restricted to 10 games. Kentucky is one of few states not to limit students on the number of games played per week.

Mr. Sears asked about the status of the Amateur Athletics Union in Kentucky. Mr. Tackett said that every facility that is being built wants to host events to pay for the facility. The demand for events is from the bottom up; parents who want their children to compete in tournaments are creating participation opportunities.

In response to questions from Mr. Seum, Mr. Tackett said that KHSAA does not rely on grants. The minimum state academic requirement for sport participation is passing in 4 courses. KHSAA requires student athletes to have a specific number of credits for each school year. More than half the schools have tougher standards than the minimum requirement.

Mr. Seum said that there would be a great difference in the amount of funding KHSAA receives and what a middle school association would receive. In response to a question from Mr. Seum, Mr. Tackett said that he would not propose the same funding model for middle schools as that for KHSAA. Catastrophic insurance is a great idea, and a middle school association could handle the group purchase. To start with, membership dues of $100 to $200 per school could be sufficient. The association does not need to get involved in events.

In response to a question from Ms. Miles, Mr. Tackett said that helmets are not checked after every football game; however, it is required that they are recertified periodically.

Discussion of Recommendations to be included in final report

Staff handed out the recommendations received. Representative Rollins said that for some of the recommendations, the language of statutes discussed appears in italics. Task force members took time to read the submitted recommendations.

Recommendations for health concerns were discussed first. Mr. Lee said that many recommendations are to ensure that coaches are CPR certified. He would also recommend that concussion certification is included in the basic training. Mr. Tackett asked Representative Jenkins whether, once fully phased in, the existing KRS 160.445 amendment will require that middle school coaches take the sports safety training which will also include concussion training. Representative Jenkins said it will. Ms. Muratalla said that her district already requires coaches to send proof of CPR, first aid, and safety training certification to the board of education.

Mr. Sears said that the phrase "member schools should provide adequate medical coverage to all sports" is vague. It would be difficult to administer and depends on the sport. He said enforcing the "independent rule" is very difficult; this should be a parental decision, not a school decision.

In response to a question from Senator Wilson, Mr. Tackett said that a physician needs to be present at all football games. The local first responders are to be made aware of the schedule. Data shows that there are more injuries at practices than games. In response to Mr. Sear's earlier comment, Mr. Tackett cautioned about an independent rule limitation.

Mr. Lantman said that sports physicals are often done quickly. A licensed medical professional conducting the physicals does not ensure that they are thorough. Senator Wilson said that typically it is the parents' responsibility. Mr. Lantman said that if a student is not cleared to play by one physician, that student can go to another physician to get clearance. Mr. Tackett said that the biggest concern he hears related to this is that middle schools do not have to use a standard form. Once the electronic records process has been set in place, some of these concerns will be prevented. Ms. Muratalla said that in her district, 6th grade physicals have been allowed to be used as sports physicals. She would like something about this to be included in the report.

Risk Management was discussed next. Mr. Tackett said that Illinois and Tennessee have game limits. Monitoring is possible.

In response to a question from Representative Rollins, Mr. Tackett said that a player below the 9th grade cannot play varsity level in football and soccer. He mentioned prohibitions found in KRS 156.070(2)(c), in regulations, and in KHSAA bylaws. This would be worth revisiting.

Representative Rollins said that Illinois and Tennessee have a rule that if an athlete plays up, he or she cannot play at the middle school level. Mr. Tackett said this is to protect the participation slot at the middle school level. He said that once the restriction of the statute is removed, this would be controlled by regulation, but the statute states that this cannot be restrictive.

Mr. Lantman said that it is going to be difficult to define limitations of seasons when middle schools are playing different scheduling windows. Mr. Lee agreed that this is an issue. Mr. Tackett proposed to limit the number of games played rather than having season limitations.

Mr. Sears said that some students play too frequently. In Somerset, a 6th grader was playing on the 6th, 7th, and 8th grade teams. Somerset adopted a one-jersey per week rule.

Senator Bowen gave a scenario in which an 8th grader, who does not advance, is physically too developed to play at middle school level but cannot play at the varsity level. In response to a question from Senator Bowen, Mr. Tackett said that there is no waiver to cover such a situation; the law states that this is not allowed.

In response to an earlier comment from Representative Burch, Mr. Tackett said that there would be nothing wrong with starting a survey on injuries, but response rate could be an issue.

The next category discussed was accident and injury insurance. In response to a question from Senator Wilson, Mr. Tackett said a set fee per student is a workable model. KHSAA provides, starting with a $25,000 deductible, up to a $5 million maximum coverage. The state board, through its regulations, mandates that the first $25,000 be covered by the athlete or the school. It works out to approximately $3 dues per athlete at the high school level to cover this cost. Insurance is an individual school board decision.

In response to a question from Senator Wilson, Ms. Muratalla said that schools in her district do not charge a fee to cover the insurance. Mr. Tackett said that some schools do charge a fee, depending on the decision of the local school board. Mr. Lantman said his district does charge a fee.

In response to a question from Ms. Miles, Mr. Tackett said that students are not allowed to play in high school without insurance. The local school has to monitor compliance.

Mr. Lantman said that the physical forms are for high school students only. According to his insurance company, middle school students are not covered by using the physical form. His school had to include a rider in its policy to be covered. This is something that needs to be addressed. Ms. Muratalla said schools in her district use the KHSAA form, which indicates that insurance is required. Mr. Tackett said the physical form could be revised.

Support for nonprofit organizations was the last point the task force members discussed. Representative Rollins said that nonprofit organizations could play a role in tournaments, with guidance from the KHSAA to ensure uniformity and to enforce the rules.

Mr. Lantman said that compliance is an issue when many schools are not members of a governing body. Each sport needs its own governing body to unify and address issues. Representative Rollins said that an umbrella organization would increase compliance. Mr. Tackett said that there is a difference between having the same rules to ensure equal competition and having rules for things such as safety. Liability is an issue. Senator Wilson said that the umbrella group would fall under the authority of the Board of Education.

Mr. Seum said that there should at least be a championship committee for different sports to provide championships. Representative Rollins said that nonprofit organizations could arrange championships. He said that recommendations can be general. It is not a good idea to put specifics in statute.

Mr. Lee expressed his concern that if there is no umbrella organization, associations could be formed in different regions, all playing by their own rules. He mentioned Jefferson County and Eastern Kentucky as examples. Representative Rollins said that he does not see this as a problem at the middle school level. The umbrella organization would be responsible for enforcing rules such as safety training for coaches, requiring sports physicals for students, and requiring the same number of sports for boys and girls. Local associations could have their own playoffs. Mr. Tackett said that this would allow schools to have different seasons, depending on available facilities.

Mr. Sears asked whether Representative Rollins is suggesting that there should be an umbrella for middle school athletics similar to KHSAA but not governing postseason play. Representative Rollins said he does not see the importance of postseason play at the middle school level. He sees the importance for students to have the opportunity to play sports if they wish to do so, and for them to learn the basics and improve their skills. Mr. Sears said that much governance is involved with such an umbrella organization. In response to a question from Mr. Sears, Representative Rollins said that such an organization could be part of KHSAA or stand alone; he is not suggesting a particular model at this point. There needs to be an umbrella organization that would oversee the health and safety of the students.

In response to a question from Mr. Sears, Mr. Tackett said that this task force is not to make official decisions; it is to get an overall view of middle school athletics and to make suggestions only. Specifics would come from discussion among stakeholders. Representative Rollins said that statute already allows KHSAA to include middle schools. All this task force can do is to make recommendations.

Representative Hall said that basic guidelines and conformity for many aspects of middle school sports are needed. Such an organization would need financing without using state funds. State tournaments would bring in money. Mr. Sears said that KHSAA is a large organization with a huge budget; he does not see the need for middle schools to develop such a large organization in the near future.

Mr. Seum invited the task force members to the upcoming football championship on November 3 - 4 at Lexington Catholic and Lafayette High Schools. He said a safety net for paraprofessionals is needed, but he does not want costly overregulation that would take away from the fun that students are experiencing through sports.

Mr. Mitchell said that there needs to be a basic structure with overarching regulation as a baseline. He cautioned against having too much regulation. The Middle School Football Association is a nonprofit organization with passionate volunteers. An overlay of administration would need funding. There have not been many incidents and a few issues need to be addressed, but more regulation is not needed. Mr. Lee agreed that not much regulation is needed, but he expressed concern that without an association, basic rules would not be enforced.

Senator Wilson said that the requirements for coaches have been covered extensively in today's discussions and no further discussion was needed.

Representative Rollins made members aware of the recommendations on a separate sheet received today that were not included in the handout discussed in this meeting.

Senator Wilson asked the task force members to send any further recommendations to staff. The co-chairs will present a draft report to be voted on for approval at the final meeting for this task force on November 26. Members will receive an advance copy of the draft report.

Adjournment

The meeting was adjourned at 3:15 PM.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

November 7, 2012

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, November 7, 2012, 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, David Givens, Vernie McGaha, Dennis Parrett, and Joey Pendleton; Representatives Royce W. Adams, Tom McKee, Terry Mills, Ryan Quarles, and Tommy Turner.

Guests: Dr. Donald Miller, Brown Cancer Center; Dr. Mark Evers, Markey Cancer Center; Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, Mr. Brian Murphy, and Mr. Biff Baker, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The October 3, 2012, minutes were approved, without objection, by voice vote, upon motion by Senator Givens and second by Representative Mills.

Kentucky Lung Cancer Research Program Report

The Kentucky Lung Cancer Research Program (KLCRP) receives tobacco settlement funds appropriations. Reporting to the committee were Dr. B. Mark Evers, Director of the University of Kentucky's Markey Cancer Center, and Dr. Donald Miller, Director of Brown Cancer Center, located at the University of Louisville.

Dr. Evers testified about four main topics: early detection programs under auspices of the Markey Cancer Center; the Markey Clinical Trials Network; constituent education efforts; and basic and translational research.

Dr. Evers discussed the Driesler Project, which looks at incidences of lung cancer and possible causes. He noted the incidence of lung cancer in Appalachia is higher than expected due to smoking and perhaps because of exposure to environmental carcinogens. Discussing the Clinical Trials Network, Dr. Evers indicated a number of people, facets of research, and study sites are involved. Doctors from other countries are also involved.

Dr. Evers discussed ongoing research that investigates the impact of radon exposure coupled with exposure to tobacco smoke.

Dr. Evers discussed funding, pointing out that investment of state funding is matched with funding from other sources, such as federal sources. He also updated the committee on efforts to gain National Cancer Institute designation.

Responding to Senator Hornback, Dr. Evers amplified on the possible reasons for high incidences of lung cancer in eastern Kentucky. Heavy metals are evident in the coal beds of Kentucky, with the heavy metals possible leaching into ground water. He told Senator Gibson that similar findings were evident in West Virginia. Responding to Senator Parrett, he indicated there also are high incidences of lung cancer in some western Kentucky counties.

Responding to Co-chair Hornback about age trends among cancer patients, Dr. Evers indicated there are genetic factors in some colorectal cancers.

Dr. Miller testified about the history of the Kentucky Lung Cancer Research Program (KLCRP), the impact of KLCRP funding on drug development, research, and lung cancer prevention and detection.

Dr. Miller also testified about research into the cervical cancer vaccine Gardasil, which is being developed with the use of tobacco plants. Research is being undertaken in cooperation with the Owensboro Cancer Research Program and involves the Kentucky Bioprocessing Facility in Owensboro.

Dr. Miller said that, in the mid-1970s, Kentucky paralleled the nation in cancer mortality. Through the years, mortality numbers spiked, and Kentucky's rate is higher than the national average. In 2000, KLCRP had no lung cancer research projects and had funding totaling $500,000; at this time, there are 26 projects, and the program has received $25 million.

Dr. Miller discussed the Brown Cancer Center/Data seam data collection project that involves 15,000 computers and the assistance of 200,000 students.

Dr. Miller also talked about different types of research, such as one lung cancer prevention project involving colored berries and the development of a breath test for lung cancer.

Co-Chair Stone mentioned that some Allen County students are involved in the Brown/Data seam project. He asked if there is a correlation between declining smoking rates and a drop in lung cancer mortality rates, to which Dr. Miller responded that studies have shown that correlation.

Responding to Representative McKee, Dr. Miller discussed the work being done to develop the cervical cancer vaccine. He is confident a vaccine can be developed that will be effective and affordable in third world countries. He discussed the issues involved in developing a new drug, such as intellectual property issues, the purity of the drug, and testing.

Governor's Office of Agricultural Policy

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), testified about project funding decisions made by the Agricultural Development Board (ADB) during its October meeting.

GOAP officials summarized funding allocations under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-Use Equipment programs from the previous month, as well as funding awards for the On-Farm Energy Program.

State and regional projects presented to the committee included: U.S. Geological Survey (USGS), Kentucky Water Science, Jefferson County, $197,000 in state funds to collect and analyze water samples from the Ohio River and the Green River; Hopkinsville Surface and Stormwater Utility, a total of $220,000 in state and county funds to identify water quality and the actual sources of pathogens, sediment, and nitrogen in the Little River Basin; Henderson County Fiscal Court, $25,000 in state funds and $35,000 in Henderson County funds to build a farmers' market structure; Madison County Fiscal Court, $50,000 in Madison County funds to buy a new truck for the county's deceased animal removal program.

Regarding the USGS Kentucky Water Science project, Mr. Neaveill told Senator Hornback that water quality models have put the agricultural industry in the position of disproving assumptions. Mr. Thomas said the project is an attempt by agriculture to be proactive and take an initial step in determining the role of farming in water quality. He described water quality as "a huge issue."

Responding to Senator Hornback about how data collected on the two rivers would be used, GOAP indicated the project will not have a level of specificity as will the Little River project. According to Mr. Neaveill, the approach will be to identify water quality issues. He said the USGS will be reporting periodically to the Agricultural Development Board.

Responding to Senator Givens, Mr. Neaveill indicated that, instead of following mandates, the agricultural industry will have data to support its position. Responding further to Senator Givens, Mr. Neaveill indicated that USGS has been asked what can be done to enhance the work planned, but it will come to money and personnel, and establishing testing stations. Mr. Rogers explained that the USGS will be attending an upcoming board meeting and will be asked about ways to expand the scope of the project. He indicated federal match money is available.

Mr. Neaveill told Senator Givens that

most of the cost of the USGS Kentucky Water Science project will consist of laboratory costs. He explained the relationship of the Kentucky River basins in the larger Mississippi River Basin.

Responding to Co-chair Stone, Mr. Neaveill said the state Division of Conservation could play a role in helping fund pollution abatement efforts that may be needed in the future. Representative Stone recommended that the board remain cautious in the granting of funds for abatement efforts.

As discussion about the project, Senator Parrett talked about certain communities have been proactive in studying the role of agriculture in water quality.

Regarding the Madison County project, Mr. McCloskey indicated to Senator Hornback that the applicant would be handling maintenance costs on the deceased livestock removal vehicle.

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

2013 Prefiled Bills

BR 17 - Representative Mike Harmon (06/08/12)

AN ACT relating to driving under the influence.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to
restructure the existing penalties from a four-tiered structure to a three-tiered structure;
expand the look-back window for prior offenses from five years to ten years, and to
allow forfeiture of motor vehicles used in a DUI if the operator's license had been
previously suspended; amend KRS 281A.2102 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 26 - Senator Denise Harper Angel (06/20/12)

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).)

To: Interim Joint Committee on Judiciary

BR 40 - Representative Arnold Simpson (08/22/12)

AN ACT relating to the sale of alcoholic beverages on election days.

Amend KRS 244.290 to permit the sale of distilled spirits and wine on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of distilled spirits and wine sales within its boundaries on any primary, or regular, local option, or special election day; limit the changes regarding election day sales to territories that already allow some form of alcohol sales; forbid the fiscal court of a county containing a first through fourth class city from changing an election day sales decision made by a first through fourth class city within that county; preclude the county from imposing an action on a first through fourth class city if that city has taken no formal action regarding election day sales; amend KRS 244.295 to remove the prohibition against the sale of distilled spirits and wine on a primary or election day in an urban-county government; amend KRS 244.480 to permit the sale of malt beverages on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of malt beverage sales within its boundaries on any primary, or regular, local option, or special election day; establish malt beverage territorial limitations and county government restrictions identical to those for distilled spirits and wine; make technical changes; amend KRS 119.215 to conform; repeal KRS 242.100.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 45 - Representative David Floyd (07/12/12)

AN ACT relating to fire protection services.

Create a new section of KRS Chapter 75 to define "city" and "fire district"; grant cities the primary right to provide fire protection services for city territory, subject to certain limitations; create a process for the provision of fire protection services to newly annexed territory; create a formula to determine the proportion of fire district indebtedness owed by the city and allow three years to pay this indebtedness; allow a fire district to continue to provide fire protection services in certain situations if written agreements are entered into with the city; amend KRS 75.010, 75.020, and 75.040 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Local Government

BR 47 - Senator John Schickel (10/03/12)

A RESOLUTION in honor and loving memory of Duane Ray Skavdahl.

Adjourn in honor and loving memory of Duane Ray Skavdahl.

(Prefiled by the sponsor(s).)

BR 48 - Senator John Schickel (10/03/12)

A RESOLUTION adjourning the Senate in loving memory and honor of Michael E. Apgar.
Adjourn in loving memory and honor of Michael E. Apgar.

(Prefiled by the sponsor(s).)

BR 49 - Senator John Schickel (10/03/12)

A RESOLUTION adjourning the Senate in honor and loving memory of Albert "Butch" Arlinghaus.

Adjourn in honor and loving memory of Albert "Butch" Arlinghaus.

(Prefiled by the sponsor(s).)

BR 50 - Senator Alice Forgy Kerr (09/17/12)

AN ACT relating to violent offenders.

Amend KRS 439.3401 to provide that persons convicted of criminal homicide under KRS Chapter 507 shall be classified as a violent offender and subject to mandatory service of time and all applicable restrictions on parole and service credits.

(Prefiled by the sponsor(s).)

BR 54 - Representative Dennis Keene (08/14/12)

AN ACT relating to dogs.

Amend KRS 258.095 to amend the definition of who qualifies as the owner of a dog to include persons permitting the dog to remain on or about premises owned and occupied by the person.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Agriculture

BR 55 - Senator Perry B. Clark (08/15/12)

AN ACT relating to medical marijuana.

Create various new sections

of KRS Chapter 218A to establish a comprehensive system for medical marijuana in Kentucky, including provisions for medical verification of need, persons allowed to cultivate, use, and possess the drug, organizations allowed to assist in providing the drug, regulation by the state Department for Public Health, the interaction with state and local governments, including law enforcement, with persons and entities coming within the purview of the Act, and establishing required reporting and review procedures; amend KRS 218A.040 to conform; name the Act the Gatewood Galbraith Medical Marijuana Memorial Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 64 - Senator Robin L. Webb (10/12/12)

AN ACT relating to controlled substances.

Amend KRS 218A.205 to replace the requirement that various medical licensing boards promulgate administrative regulations establishing mandatory prescribing and dispensing standards related to controlled substances with a requirement for the promulgation of recommended guidelines.

(Prefiled by the sponsor(s).)

BR 65 - Representative Kim King (08/02/12)

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).)

To: Interim Joint Committee on Appropriations and Revenue

BR 66 - Representative Kim King (08/02/12)

AN ACT relating to foreign law.

Create new sections of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 68 - Representative Kim King (08/02/12)

AN ACT relating to school notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 77 - Representative Arnold Simpson (08/14/12)

AN ACT relating to the angel investor tax credit.

Create new sections of Subchapter 20 of KRS Chapter 154 to establish the angel investor tax credit program for certain investments in small businesses; define terms; state Act's title and purposes; list requirements for small businesses and investors to qualify for participation; require the Kentucky Economic Development Finance Authority (KEDFA) to establish the application process; cap the total amount of angel investor and Kentucky Investment Fund Act tax credits available in all years at $40,000,000; require KEDFA to maintain a Web site listing all businesses and investors certified and all credits awarded; require small businesses to report annually and allow for tax credit recapture in certain circumstances; amend KRS 152.20-255 to provide that the total amount of tax credits available in the Kentucky Investment Fund Act program and the angel investor program is $40,000,000 in all years; create a new section of KRS Chapter 141 to establish the credit; amend KRS 141.0205 to provide the ordering of the credit.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 82 - Senator Dennis Parrett (08/22/12)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new participants effective August 1, 2013; 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, 2013, from being used to vest for retiree health benefits in the Legislators' Retirement Plan, and to require service purchased on or after August 1, 2013, 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, 2013; amend KRS 61.680 to conform and to make technical amendments; EFFECTIVE August 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 84 - Senator John Schickel (08/23/12)

AN ACT relating to the sale of alcoholic beverages on election days.

Amend KRS 244.290 to permit the sale of distilled spirits and wine on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of distilled spirits and wine sales within its boundaries on any primary, or regular, local option, or special election day; limit the changes regarding election day sales to territories that already allow some form of alcohol sales; forbid the fiscal court of a county containing a first through fourth class city from changing an election day sales decision made by a first through fourth class city within that county; preclude the county from imposing an action on a first through fourth class city if that city has taken no formal action regarding election day sales; amend KRS 244.295 to remove the prohibition against the sale of distilled spirits and wine on a primary or election day in an urban-county government; amend KRS 244.480 to permit the sale of malt beverages on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of malt beverage sales within its boundaries on any primary, or regular, local option, or special election day; establish malt beverage territorial limitations and county government restrictions identical to those for distilled spirits and wine; make technical changes; amend KRS 119.215 to conform; repeal KRS 242.100.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 88 - Representative Fitz Steele (08/14/12)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 89 - Representative Fitz Steele (08/29/12)

AN ACT relating to dextromethorphan abuse.

Create new sections of KRS Chapter 218A to prohibit any person from possessing one gram or more of pure dextromethorphan or dextromethorphan that has been extracted from solid or liquid form; prohibit sale of products containing dextromethorphan as the only active ingredient to individuals younger than 18; require any person selling a product containing dextromethorphan to require that prospective buyers show a photo ID and sign a document stating the customer is older than 18 before purchase; create an affirmative defense for the retailer if a minor utilizes a fraudulent ID; prohibit individuals younger than 18 from possessing a product that contains dextromethorphan as the only active ingredient; prohibit individuals younger than 18 from misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.

(Prefiled by the sponsor(s).)

BR 90 - Senator Tom Buford (09/19/12)

AN ACT relating to exemption of religious organizations from the insurance code.

Amend KRS 304.1-120, containing exclusions from the insurance code, to delete the religious publication exclusion and substitute a religious organization exemption; require notice for delivery to all participants that sharing of medical expenses is not insurance and establish notice requirements; delete the requirements that payments shall be made directly from one subscriber to another, that subscriber amounts are voluntary with no assumption of risk or promise to pay, and the verbatim disclaimer statement.

(Prefiled by the sponsor(s).)

BR 91 - Representative David Floyd (09/04/12)

AN ACT relating to retirement.

Create a new Section of KRS 61.510 to 61.705 to prohibit future members of the General Assembly from participating in the Kentucky Employees Retirement System unless they participated in the Kentucky Employees Retirement System as a member of the General Assembly prior to August 1, 2013; allow current members of the General Assembly participating in the Kentucky Employees Retirement System to make a one-time election to discontinue participation; amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2013, and to allow current members of the General Assembly participating in the Legislators' Retirement Plan to make a one-time election to discontinue participation; amend KRS 61.510 and 61.680 to conform.

(Prefiled by the sponsor(s).)

BR 92 - Representative David Floyd (09/04/12)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit members of the Legislators' Retirement Plan, who begin contributing on or after August 1, 2013, from using salary earned in another state-administered retirement system or plan to calculate benefits in the Legislators' Retirement Plan; allow members of the Legislators' Retirement Plan contributing to the plan prior to August 1, 2013, to make a one-time election to have their benefits from the Legislators' Retirement Plan based solely on their legislative salary.

(Prefiled by the sponsor(s).)

BR 99 - Senator Tom Buford (09/11/12)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new members who take office on or after August 1, 2013; amend KRS 61.510 to close the Kentucky Employees Retirement System to members of the General Assembly who take office on or after August 1, 2013; amend KRS 61.680 to conform.

(Prefiled by the sponsor(s).)

BR 103 - Representative Stan Lee (09/24/12)

AN ACT relating to abortions.

Create a new section of Subtitle 17A of KRS Chapter 304 to define "health benefit exchange" and "small employer" for the purposes of health benefit exchange group health plans; prohibit abortion coverage by a qualified health benefit plan through a health benefit exchange in accordance with the opt-out provision of the federal Patient Protection and Affordable Care Act; amend KRS 304.5-160 to conform; amend KRS 311.800 to provide that the amendments to KRS Chapter 304 contained in this Act shall not limit or amend the provisions of this statute, which shall remain in full force and effect.

(Prefiled by the sponsor(s).)

BR 149 - Representative Michael J. Nemes (09/19/12)

AN ACT relating to non-felony expungements.

Amend KRS 431.078, relating to expungement of misdemeanor and violation arrest records, to clarify that the term "violation" as used in that statute has the same meaning as set out in the Kentucky Penal Code.

(Prefiled by the sponsor(s).)

BR 159 - Representative Julie Raque Adams (10/24/12)

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 next of kin to ask the court to permit shock probation.

(Prefiled by the sponsor(s).)

BR 166 - Representative Jesse Crenshaw (10/01/12)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a felony other than treason, intentional killing, a sex crime, or bribery the right to vote after expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

BR 167 - Representative Steve Riggs (10/05/12)

AN ACT relating to retirement benefits for legislators.

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 the effective date of the Act; amend KRS 6.520 to provide that retirement benefits in the Legislators' Retirement Plan shall be based upon the legislator's highest 5 years of salary rather than his or her highest 3 years of salary; 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 the effective date of the Act; limit the use of salary credited to other retirement systems in calculating benefits in the Legislators' Retirement Plan if the member does have service in the other state-administered systems prior to the effective date of the Act; 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 the effective date of the Act; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators' Defined Contribution Plan; provide an employer match of up to 5 percent of the legislator's wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at six years; provide that the benefits under 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 begins his or her first term of office on or after the effective date of the Act shall not participate in these plans as a result of service in the General Assembly; amend KRS 61.680 to conform.

(Prefiled by the sponsor(s).)

BR 168 - Representative Ron Crimm (09/28/12)

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, 2013.

(Prefiled by the sponsor(s).)

BR 172 - Representative Michael J. Nemes (10/22/12)

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).)

BR 176 - Representative Linda Belcher (10/03/12)

AN ACT relating to reemployment after retirement.

Amend KRS 61.637 to provide that local school districts shall not be required to reimburse Kentucky Retirement Systems for retiree health care premiums on reemployed retirees who work less than 80 days a year.

BR 219 - Representative Darryl T. Owens (10/25/12)

AN ACT relating to information used in redistricting.

Create a new section of KRS Chapter 196 to require the Department of Corrections to create and maintain a database of information on incarcerated persons, including last known address, and to report that information to the Legislative Research Commission following the decennial census; amend KRS 7.550 to require the Legislative Research Commission to receive prisoner population data, including last known address, from the Department of Corrections and to request the same information from federal facilities, and to allocate prisoners to their last known address; create a new section of KRS Chapter 5 to require that the adjusted prisoner population data be used in redistricting Kentucky's Senatorial and Representative districts; create a new section of KRS Chapter 118B to require that the adjusted prisoner population data be used in redistricting Kentucky's Congressional districts.

(Prefiled by the sponsor(s).)

BR 220 - Senator Jimmy Higdon (11/08/12)

AN ACT relating to preschool for children with disabilities.

Amend KRS 157.226 to count the average number of identified children with disabilities on December 1 and March 1 of the prior academic year to calculate preschool funding.

(Prefiled by the sponsor(s).)

BR 233 - Representative Jim Wayne (10/31/12)

AN ACT relating to public financing for judicial campaigns and making an appropriation therefor.

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 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; create a new section of KRS Chapter 141 to 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; amend KRS 21A.140 to permit the Supreme Court to allow members of the Kentucky Bar Association to contribute to the clean judicial elections fund with their bar dues; EFFECTIVE JANUARY 1, 2014.

(Prefiled by the sponsor(s).)

BR 241 - Representative Jim DeCesare (10/31/12)

AN ACT relating to designating a surrogate on a living will directive.

Amend KRS 311.625 to add that an employee, owner, director, or officer of a health care facility where a grantor is a resident or patient may be designated or act as surrogate if the person is a member of the same fraternal order.

(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

Buford, Tom
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Clark, Perry B.
BR55*
Harper Angel, Denise
BR26*
Higdon, Jimmy
BR220*
Kerr, Alice Forgy
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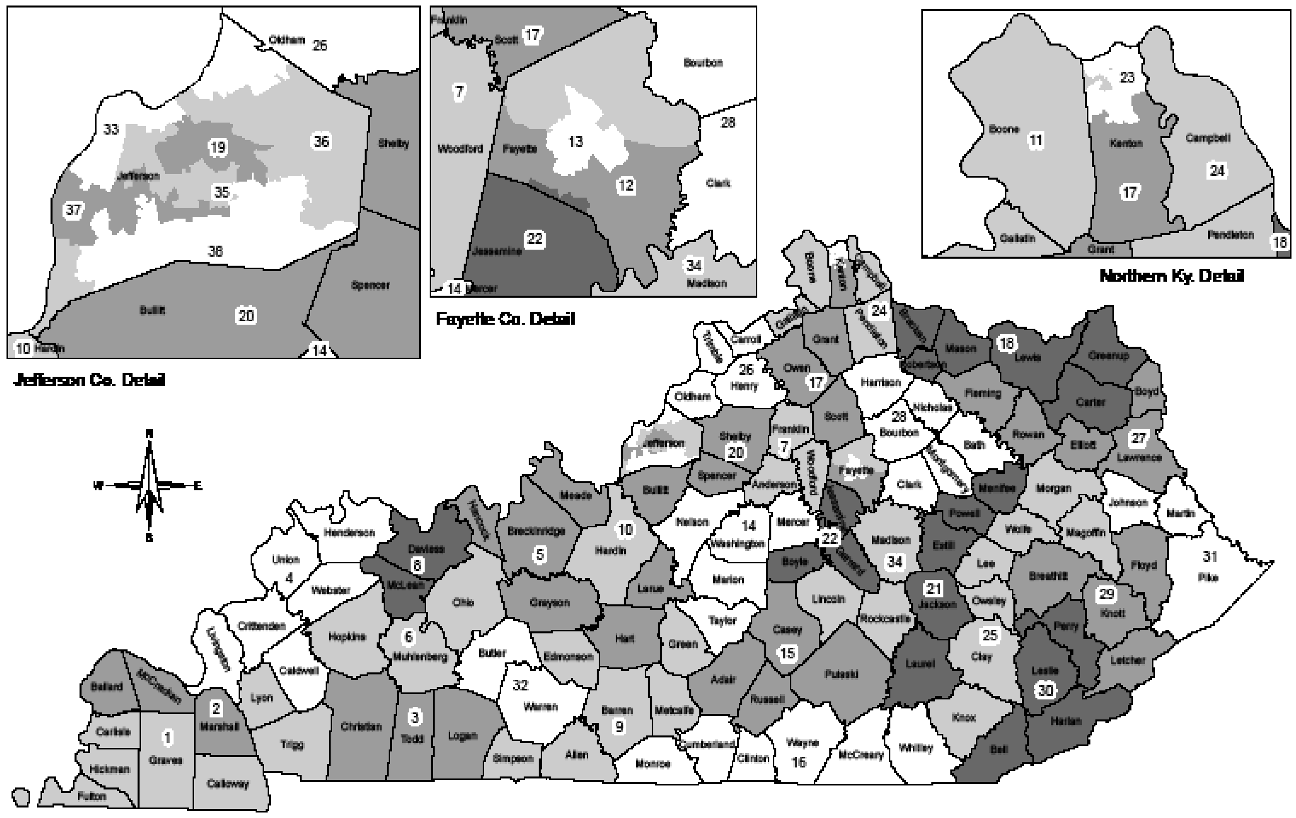
Energy,
from page 3

like most of your profile is pretty low, but the most obvious is the cooling towers," Smith told Lorek, who said TVA's cooling towers aren't used for safety cooling. "If the plant is shut down and relying on safety systems to keep the core cool, we don't have to have them," he said. He added later that such an attack would not result in the release of radioactive material.

As far as prevention of such attacks, Lorek said "we all rely on the federal government to prevent those things from happening," Riner said he was not reassured.

"Knowing that right now, Iran purchases sophisticated technology and weapons systems from Russia and China, and … what we are dealing with in the Middle East... It makes no sense whatsoever to me for Kentucky to bring nuclear power in here so that we can be targeted for something that we can't deal with," said Riner.

The TVA currently has three nuclear plant operation sites: three units at Browns Ferry in Alabama; two units at Sequoyah in Tennessee; and one unit at Watts Bar in Tennessee. A second unit is now under construction at Watts Bar (which is expected to be operational by Dec. 2015) with another plant, called Bellefonte, in the engineering phase in Alabama.



2002 Kentucky Senate Districts

Senate Plan (SH001A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.

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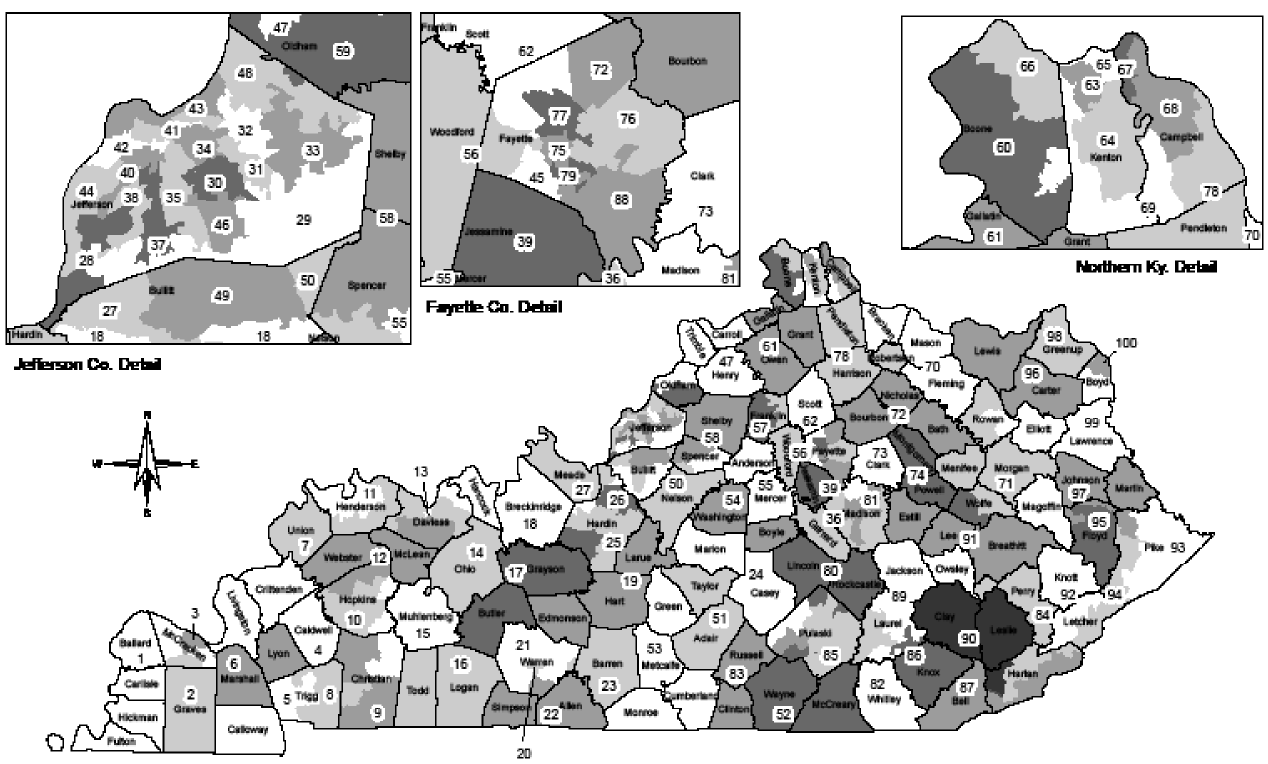

2002 Kentucky House Districts

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

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