

Pros, cons of penal system discussed by lawmakers

by Rebecca Mullins
LRC Public Information

FRANKFORT — A former UK law school dean and a Commonwealth's Attorney gave opposing views to a state legislative committee on Oct. 21 about how the state's repeat felony offender laws should be used.

Dr. Robert G. Lawson, who continues to teach law at UK and recently completed a study of Kentucky's prison system, told the Interim Joint Committee on Judiciary that the state's persistent felony offender (PFO) law was intended to be used rarely for serious offenders and not to "jack up penalties," adding "...my fear is that it is used against non-dangerous, non-serious offenders."

"I feel like we have lost our sense of proportionality at times so that the penalties we impose do not fit the crimes," he said.

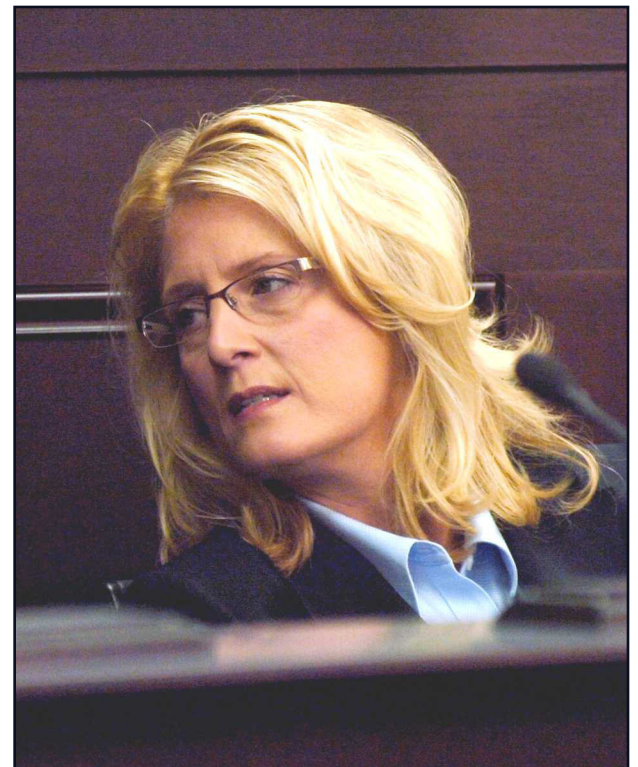
Disagreeing with Lawson was Fayette County Commonwealth's Attorney Ray Larson, who said statistics show that 44 percent of inmates released from prison in Kentucky will be back in prison within a few years. Nationally, the recidivism rate is 67 percent, Larson said.

"I think that the public, if they ran into someone who has 14 prior criminal convictions, they have a right to be protected," Larson said. "We know when they're on the street that they commit crimes, and when they're not on the street, they don't. If we really want to be effective, there have to be consequences for violating the law the first time, every time."

Lawson, however, said the current PFO law is only helping increase the state's prison population, which is seven times greater than it was in the early 1970s when Kentucky's PFO laws were first written. Many of today's inmates are substance abusers who are facing harsher penalties for their crimes, Lawson said, but not being rehabilitated because of a lack of funding.

"The last prison we built cost \$90 million," Lawson said. "If you spend all that money to lock them up, you aren't going to have money available for (rehabilitation)."

Lawson said the fact that Kentucky's inmate population has already grown by 700 in the few months since the state implemented a new release policy that has freed around 1,500 inmates shows more needs to be done.



Rep. Robin Webb, D-Grayson, talks with another lawmaker during the Oct. 21 meeting of the Interim Joint Committee on Judiciary.

Continued on page 2



Sen. Ernie Harris, R-Crestwood, comments on testimony during the Oct. 8 Agriculture and Natural Resources meeting.

Lawmakers urge drought, wind assistance for Kentucky

by Rebecca Mullins
LRC Public Information

FRANKFORT — A state legislative committee approved a resolution Oct. 8 asking the federal government to financially help Kentucky farmers affected by drought and a September wind storm.

The resolution urges the U.S. Secretary of Agriculture to approve a disaster assistance request made recently by Governor Steve Beshear and Kentucky Agriculture Commissioner Richie Farmer for those farmers affected by drought and a Sept. 14 wind storm left over from Hurricane Ike. Rep. Tom McKee, D-Cynthiana, who co-chairs the Interim Joint Committee on Agriculture and Natural Resources that approved the resolution, said it could help Kentucky farmers receive

the assistance they need.

"It will allow--upon a decision by the U.S. Department of Agriculture and the administration--it will allow us to qualify for some loans and programs in the event that there is drought assistance," said McKee.

As of early October, the Palmer Drought Index reported that the west, central and Bluegrass regions of the state were in a moderate drought with severe drought conditions in East Kentucky. Conditions improved slightly days later, when weather reports show the state received rainfall totaling between a half to three-quarters of an inch in most areas of the state and around 2/10 of an inch in southeast Kentucky, but more rain was needed.

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Drought aid, page 1

The Palmer Index released in early Oct. indicates that the state would need 4.98 inches of above-normal rainfall in West Kentucky, 5.71 in Central Kentucky, 5.19 in the Bluegrass region and 6.65 inches in East Kentucky to end the current drought.

This is the second consecutive year for drought in the Commonwealth.

This is the second consecutive year for drought in the Commonwealth, with southeast and south central Kentucky most hard-hit.

According to the resolution passed by the committee, the drought has hurt corn and soybean yields and is drying up the state's hay crop, which feeds livestock in the winter months.

Forestry concerns aired before panel

by Rebecca Mullins
LRC Public Information

FRANKFORT – Legislation is needed to improve management of woodlands by their owners, state lawmakers heard on Oct. 8 from several forestry groups.

Jim Corum, president of the Kentucky Woodland Owners Association, said Kentucky's timber can be improved by better management by woodland owners, yet less than 10 percent of owners do any management because of the high financial risk and low reward. Corum told members of the Agriculture and Natural Resources Committee that legislation addressing what he called "blockers" that discourage management could persuade the state's nearly half million woodland owners to improve their lands.

The 5 blockers--determined by consensus of a workgroup comprised of Corum's association, the Kentucky Forest Industries Association (KFIA), the state Division of Forestry and other groups--include threat of wildfire, threat of disease and pests, nonmarketable low-grade timber, threat of timber theft and "competitive disadvantages."

"If we could craft some policy changes to address those blockers, we feel like we could encourage those woodland owners to become woodland owner-timber managers," Corum said.

Corum is a constituent of Rep. Rick Nelson, D-Middlesboro, who said that a meeting is scheduled in Frankfort on Nov. 20 to form a legislative task force on woodland issues. Nelson said the impact of woodlands on Kentucky's economy match coal and farm production and needs to be addressed.

"\$4.6 billion is a lot of money," Nelson added, referring to the amount of sales revenue generated by Kentucky's forests each year.

Progress has been made in Kentucky's timber industry over the past decade since the Kentucky General Assembly passed the Kentucky Forest Conservation Act, which primarily affects loggers by requiring trained "master loggers" to oversee logging operations along with other regulations. It does not, however, require as much responsibility from private forest owners, which concerns some.

Corum said the workgroup believes improving the productivity of private woodlands could double the

economic impact of the state's \$8.7 billion forest economy.

"Kentucky's forests are only 25 percent as productive as they can be," Corum said.

One concern raised by Bob Bauer of the Kentucky Forest Industries Association is collection of fines assessed on loggers who are considered "repeat bad actors" for neglecting to follow state regulations. Of \$360,000 in fines assessed against loggers--mostly repeat bad actors--Bauer said only around 10 percent has been collected.

When asked by Rep. Fred Nesler, D-Mayfield, why the fines haven't been collected, Division of Forestry Director Leah MacSwords said locating the loggers' assets is difficult. Additionally, she said there is no provision in the law that prohibits those who don't pay the fine from logging.

Rep. Robin Webb, D-Grayson, said the Division of Forestry is one agency that has "borne the brunt" of a lean budget, which required cuts across state government. That needs to be taken into consideration, she said, during discussions about how current regulations are working.

"We need to look at the budget side of this to do this effectively," said Webb.

Penal code, from page 1

"If we can't find a way to reduce the population and generate resources to try to help these people I don't think we're going to improve things any," Lawson said. "I believe we mostly are making the people we are incarcerating worse, and I don't think that helps us."

Rep. Robin Webb, D-Grayson, an attorney, said several factors should be considered when deciding a person's penalty, including mental illness and addiction.

"There are also of things that come into play when we evaluate a person and their criminal history," Webb said.

While Lawson said he did not know what the best course of action should be, Larson explained that the safety of everyone should be considered, adding "... (some) think it's OK to let people out of prison as long as they don't come to our neighborhood."

People in other neighborhoods, however, share a different philosophy, said Rep. Kevin Bratcher, R-Louis-

ville.

"You're close to these problems because it's your profession," Bratcher said,

"I believe we mostly are making the people we are incarcerating worse, and I don't think that helps us."

**Dr. Robert Lawson,
UK College of Law**

Substance Act, which is working on revising the code, is expected to issue its report by December.

er said, speaking to Professor Lawson. "But (those who aren't), their philosophy is keep them behind bars so they don't come and ruin my life again."

The General Assembly's Subcommittee on the Penal Code and Controlled



Interim Joint Committee on Judiciary Co-Chair Rep. Kathy Stein, D-Lexington, fields questions during committee discussion on the state penal code and controlled substance law.

Charities want labels on for-profit donation boxes

by Rob Weber
LRC Public Information

FRANKFORT -- Citizens who place clothing and other items in donation receptacles should know whether their items are going to a charity or a business that will sell them for profit, representatives of two charities told members of the Licensing and Occupations Committee on Oct. 10.

While some citizens might assume that all large boxes placed in public areas to collect donated items are operated by charities, that is not always the case, said Carl Metz, government affairs specialist for Goodwill Industries of Kentucky. Large red donation boxes have been placed in Louisville, Lexington, Nicholasville, Shelbyville and other cities in Kentucky that are operated by an out-of-state business that resells the items for its own profit, Metz said.

Metz urged lawmakers to enact legislation that would require donation boxes operated by for-profit entities to be clearly labeled as such so that people don't mistakenly think they are donating to a charity.

"We have no objection to a for-profit entity having a donation box. We live in a free enterprise system," Metz said. "However, we think that it's important that the public not be misled into thinking that they are making a donation to a charity when in fact they are not."

Metz urged lawmakers to support Bill Request 34, legislation that has been prefiled in anticipation of the General Assembly's 2009 session that would require that donation boxes operated by for-profit entities be labeled in a way that informs citizens that donated items are going to a for-profit business rather than a charity.

The measure is similar to a local

ordinance that was approved in Louisville last year.

Donation boxes in some cities are operated by an out-of-state business that resells the items for profit.

boxes are cutting into donations that could instead go to charities.

"I'm alarmed that well-meaning, caring donors are deceived into thinking their donation is being used for a real charitable purpose when in fact these used coats, shoes, furniture and

Linda Romine, public relations coordinator for the St. Vincent De Paul Society, echoed Metz's support for BR 34, noting that for-profit donation

toys are being resold to pad the bottom line of a privately owned, out-of-state, for-profit company," Romine said. "I urge you to mandate that the for-profit companies clearly label their boxes as commercial enterprises that exist to turn a profit, not to support worthwhile charitable causes."

Sen. Tom Buford, the sponsor of BR 34, said his proposal would help ensure that citizens don't make errors on tax forms after placing items in donation boxes. "The reason I feel strong about this is that many individuals make donations into these boxes ... then they go home and at the end of the year they write it off on their taxes. If they put (items) in the wrong box then they have committed a crime," said Buford, R-Nicholasville. "So it's very important that they know where these items are going to be delivered so they make a right decision on their tax preparation."

Lawmakers get closer look at math and science academy

by Chuck Truesdell
LRC Public Information

BOWLING GREEN — A year after its students first arrived on campus, lawmakers got an up-close look at Kentucky's Carol Martin Gatton Academy of Mathematics and Science where members of the Interim Joint Committee on Education held their monthly meeting on Oct. 13.

The academy, now in its second year, hosts 120 students from across the commonwealth on its campus at Western Kentucky University. The students, all high school juniors and seniors, take half their classes with regular WKU students. Other courses contain solely academy students, while others are part of the WKU honors program.

By the time they graduate high school, students can earn two years of college credit, saving their parents money.

Academy director Tim Gott noted that the first class of graduates accepted \$2.6 million in scholarships, or nearly \$50,000 per student on top of their earned college credit. Students from 81 counties have already taken part in the program, said Gott, and efforts are made to attract students from

every county in the state.

While the school's focus is on math, science, technology and engineering, Gott said he was proud of students' social

Of the first graduating class, 42 of 54 students attended Kentucky colleges, with 25 of them staying at WKU.

Gott and assistant director Corey Alderdice noted that while students have a measure of freedom because of the class schedule, they are still monitored. There is a 10:30 p.m. curfew during the week and separate wings for male and female students within the academy's Schneider Hall dorm.

Although separation from their families could cause anxiety, "it's amazing how quickly students adjust to the environment," Gott said. "The transition has been very smooth."

Last year's first graduating class finished with 54 of the 55 seniors it began with, he noted.

WKU President Gary Ransdell pointed out the benefits to the state. "First and foremost, this is an economic development strategy for the commonwealth," he said. Of the first graduating class, 42 of 54 students attended Kentucky colleges, with 25 of them staying at WKU. Familiarity with the campus and ongoing research are incentives to stay, academy administrators said.

Many students conduct research projects, and some are producing published papers, Gott said. Alderdice noted that students have a number of math and science electives they can complete, allowing them to study any field with a science component, from astronomy to agriculture.

Students are chosen for the program in their sophomore year, with applications due in February.

Legislators received a tour of the academy and WKU from students, met with academy students from their districts, and received a packet of information, including application materials detailing the rigorous nature of the program and its admission process.

Alternative vehicle options studied

by Chuck Truesdell
LRC Public Information

FRANKFORT — Some new vehicles being rolled out across the nation can't drive in Kentucky because they don't neatly fit into the state's vehicle regulation categories.

Dan Glass, the state's Commissioner of Vehicle Regulation, talked to members of the Interim Joint Committee on Transportation on Oct. 7 about the possibility of new laws allowing more fuel-efficient vehicles on state roads.

Many vehicles, including the ZAP, cannot be classified as a car, a motorcycle, or any other legally-defined vehicle, Glass said, causing problems in licensing them and allowing them on state roads.

"Low-speed vehicles" are defined by the federal government as any four-wheeled vehicle that has a top speed of 20-25 miles per hour as well as other requirements, such as turn signals, a windshield, headlights,

Continued on page 58

2009 Session Calendar

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

JANUARY – PART I

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

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

MARCH

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

FEBRUARY – PART II

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

() Denotes Legislative Day

() Denotes Legislative Day



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Mike Denham 306 Old Hill City Road Maysville 41056 Home 606-759-5167	Adam Koenig 3346 Canterbury Ct. Erlanger 41018 Home 859-578-9258	Carl Rollins II PO Box 424 Midway 40347 Home 859-846-4407	
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INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Minutes of the 4th Meeting of the 2008 Interim September 12, 2008

The 4th meeting of the Interim Joint Committee on Agriculture and Natural Resources was held on Friday, September 12, 2008, at 10:00 AM, in the E.S. Good Barn at the University of Kentucky. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Jim Gooch Jr., Co-Chair, and Tom McKee, Co-Chair; Senators Ernie Harris, Joey Pendleton, Brandon Smith, and Damon Thayer; Representatives Royce W. Adams, Dwight D. Butler, Mike Cherry, Hubert Collins, James R. Comer Jr., Tim Couch, Mike Denham, C. B. Embry Jr., Jeff Greer, Richard Henderson, Jimmy Higdon, Charlie Hoffman, Brad Montell, Fred Nesler, Sannie Overly, Don Pasley, Tanya Pullin, Rick Rand, Tom Riner, Jim Stewart III, Greg Stumbo, Tommy Turner, Ken Upchurch, and Susan Westrom.

Legislative Guests: Representatives Jody Richards, Rocky Adkins, and John Will Stacy.

Guests: Dr. Scott Smith, Drew Graham, Dr. Nancy Cox, Dr. Mike Mullen, Dr. Jimmy Henning, Dr. Will Snell, and Dr. Greg Halich, University of Kentucky; Commissioner Richie Farmer, Mark Farrow, and Dale Dobson, Kentucky Department of Agriculture; Joyce Kinder, Kinder Caviar, Inc; Jan Gould, Kentucky Retail Federation; Darren Moore, Benjy Kinman, and Darren Moore, Kentucky Department for Fish and Wildlife Resources; and James "Jitter" Allen, Altria.

LRC Staff: Lowell Atchley, Stefan Kasacavage, Susan Spoonamore, Emily Harkenrider, Donna Little, and Kelly Blevins.

Representative McKee recognized Senator Harris who updated the committee on the condition of Representative David Osborne's mother who was in very grave condition. Representative McKee asked the committee to take a moment of silence to remember the Osborne family.

Representative McKee asked for motion on approval of the August 21, 2008 minutes. Representative Pasley moved that they be adopted. Representative Collins seconded the motion. The motion carried by voice vote.

Next, Representative McKee rec-

ognized Mr. Drew Graham, who welcomed the committee to the UK College of Agriculture Ag Roundup and thanked the committee for participating for the last five years. Mr. Graham invited the committee to a farm safety demonstration following the meeting. He also invited the members to a ground-breaking ceremony for the Livestock Disease Diagnostic Center. Dean Scott Smith extended his appreciation to all the participants of the Ag Roundup noting the great amount of teamwork and partnership this year's event had required. Dean Smith then introduced Dr. Mike Mullen, Associate Dean for Academic Programs, Dr. Jimmy Henning, Associate Dean for Cooperative Extension System, and Dr. Nancy Cox Associate Dean for Agriculture Experiment Station, for an update.

Dr. Mullen commented that they were enjoying a wonderful turnout for the Ag Roundup with 1200 students, faculty, and staff participating in Thursday night's events and noted that it is indicative of the community the college is. He went on to share information that enrollment is moving upwards showing a 43% increase in the number of freshmen for the College of Agriculture. The College of Agriculture currently has 2100 students enrolled, not including 400 graduate students, which makes it the third largest college at the University of Kentucky.

Dr. Henning said the "career ladder", or County Agent Initiative, has been implemented over the last two years. Agents are rewarded for service, excellence, and programming. He also expressed his appreciation to the Agricultural Development Board for their help in obtaining \$2 million to renovate the 4-H camps across the state. He noted that agents make some of the best role models and shared that through 4-H they were able to reach approximately 180,000 students. He shared his appreciation for the support of the Agricultural Development Fund as well as the KARE program. In addition, the College of Agriculture is including "go-green," sustainability, and local food effort in academics, as well as focusing on health education with programs such as Second Sunday, which encourages outdoor activity and fund raising efforts for ovarian cancer research through the Homemakers Clubs.

Dr. Cox thanked the General Assembly for their support of the Livestock Disease Diagnostic Center. She stated that the College of Agriculture is unique in that they have diagnostic lab and regulatory services. She noted that their research is ranked in the top ten nationally. She mentioned that the College has

received several grants totaling \$31 million. She expressed concern that their grant funds for facilities do not totally fund facilities, farms, and animals. Dr. Cox shared that they are currently investigating technology for protecting animal health, production of food, and biofuel.

Representative McKee introduced several Agricultural Development Board members who were in attendance in addition to Dr. Smith, Mr. Dennis Griffin, Mr. Sam Lawson, Mr. Wayne Hunt, Troy Rankin, and Mr. Rodney Dick.

Next, Dr. Will Snell encouraged the committee that it has been a banner year for United States agriculture with producers setting an all time record, and net farm income 60% is above average over the past ten years. Over the past twenty years, food prices had increased two percent but for 2008 they have increased six percent. He stated no one can deny the fact that including the price of grain has affect on food prices. Even more of a concern over a sustained period of high grain prices is the effect on long term livestock supplies and effect in meat producers. As for a short term, food price increases have been related to high packaging and fuel prices, non-agricultural factors.

Dr. Snell went on to cite rising labor costs. He said the major concern is the cost of shipping and cost of fuel. The low value of dollar has made exports grow. Weather issues overseas have had an impact, and some world governments have limited or banned world exports. He said the bottom line is that the increase in food prices has been affected by a lot of factors. Transportation costs and international events have had a greater impact, and for 2009, food prices will continue to rise but at a slightly slower rate, he said.

As for the farm economy, Dr. Snell mentioned a Lane Report article, noting that it indicated a \$4 billion agriculture economy, and that we have potential to reach \$5 billion in receipts. He said the article, written in the summer, said cash receipts for 2008 will be very strong in the state. The bad news, however, is that input costs are increasing and net farm income may be down but will be above levels we saw prior to the tobacco buy-out.

Dr. Snell mentioned the 2008 Farm Bill, passed by Congress. He noted it primarily offered producers a revenue insurance program called "Acre." He said that a large part of the bill will encourage conservation programs. He closed by mentioning that the College of Agriculture Leadership Group visited California for a conference this year. He noted the same trip was taken three years ago and

how concern grown there. But this year he returned feeling very optimistic due to the water issue in the west. He said there are a lot of market opportunities for Kentucky agriculture.

Representative Stumbo asked if there are any programs that look at feasibility of other types of crops to convert to fuel.

Dr. Snell responded the Farm Bill looks at funding more projects in terms of research. Dean Smith said that yes, the University of Kentucky has done work and is looking at lots of possibilities, for example switch grass, canola, and sorghum.

Dr. Cox expanded that they are researching partial refineries for on-farm manufacturing of sorghum.

Dr. Halich mentioned pilot projects to grow switch grass in central and northern Kentucky. The grass would be burned to generate electricity.

Representative Stumbo mentioned that our climate is conducive to forage growth. He also mentioned that if they are able to develop grass for fuel, that may help with reduction of carbon dioxide. He noted planting specific grasses that can be used for fuel should be planted along interstates. Dr. Halich responded that North and South Dakota and Montana do that.

Representative McKee then asked Dr. Halich to continue with his portion of the agenda. Dr. Halich began by saying that ethanol has an effect on commodity prices and impacts Kentucky. He mentioned news stories reporting on the amounts of grain going into the production of ethanol. He said that if the current projections hold on pace to use one third of corn crop fuel for ethanol production, it will have major implications. He noted that in 2005-2006, the use of corn for ethanol increased dramatically. He projected a 33% increase for 2008. Dr. Halich said that total revenue has increased beyond input costs from grain growers, creating a net positive. From livestock standpoint, cow and calf producers are hurting. Stock operators, those who take weaned calves to the point where they are selling them to feed lots, are doing well right now. As for pork and poultry, obviously the price of grain is hurting those two sectors. Dr. Halich noted that if we continue to see historical highs we will see a shift in land use from hay production and pastures to corn and soybeans.

Representative McKee asked about implications worldwide as it pertains to ethanol and corn. Dr. Halich responded that the United States is the primary producer of corn-based ethanol by far and the foremost corn producer in the world. The impact that we have here will have a major spillover in the rest of the world as far as the market price for corn.

Representative McKee asked about the status of ethanol facilities. Dr. Halich responded that they do have the capacity to go onboard in the next couple

years. He said that corn once purchased at \$7.80 a bushel under farm contracts has come down to \$5.40. He said that they have seen a number of ethanol plants shutting down or projects that were in the process of construction had been put on hold. The price of ethanol is directly tied to the price of barrel oil, as they have exceeded the mandate in terms of ethanol that is used to go into the mix of gasoline.

Dr. Snell mentioned that there is a ten billion gallon capacity, and corn prices and the price of oil affects the profitability. The renewable fuel standards have a mandated level of nine billion gallons.

Representative McKee inquired if there was any unexpected news in the grain report. Dr. Snell replied that yields were down nationally, that in Kentucky estimated yield for corn was down from 141 bushels per acre to 137 bushels per acre and soy, 39 bushels per acre to 36 bushels per acre.

Senator Pendleton mentioned the price of gas and the devaluation of the dollar and other factors. Dr. Snell responded that the export market has been phenomenal and all of a sudden the dollar is beginning to strengthen. Senator Pendleton then mentioned that distiller's grain can be used by livestock. Copies of Dr. Snell's and Dr. Halich's handouts are on file with the LRC Library.

Finally, Representative McKee noted that Ms. Joyce Kinder, of Kinder Caviar, Inc.; had signed up to speak to the committee to address concerns regarding some paddlefish administrative regulations. Ms. Kinder agreed that regulations are necessary but would like to see some provisions amended. She specifically noted the revocation of a fisherman's license or permit could occur even though water boundaries were inaccurate because of GPS positioning. She stated they feel that license revocation is extremely harsh. She also noted that they could not agree upon snagging methods. She said that under the current regulation all snagging methods must stop. Finally, Ms. Kinder noted disagreement with the size limit, noting that they do not want to hold up the process but would like the committee to take a further look at the regulation.

Representative McKee noted that nothing can be changed in committee without the agency's agreement.

Senator Harris mentioned the Aquaculture Task Force, and asked if the committee can place a letter on the regulation that would put the regulation in affect only until the beginning of the next legislative session.

Representative McKee noted that the committee will review this issue at a later committee meeting.

Representative Riner thanked the Governor's Office of Agricultural Policy, Congressman Hal Rogers, and Ms. Kinder for acknowledging the great benefit Kentucky fishing is to the state.

Representative Collins requested that future agendas have a description of each administrative regulation that had been referred to the committee. Representative McKee agreed and that future agendas will contain a description.

Next, Representative McKee welcomed Dale Dobson and Commissioner Richie Farmer of the Kentucky Department of Agriculture to the table to share with the committee about their farm safety demonstrations. Commissioner Farmer noted that their most important focus is the safety of Kentucky's farmers. Mr. Dobson explained to the committee about the farm safety program and thanked Dean Smith for their cooperation as they set the demonstration up. He noted that it takes a collection of individuals and agencies to bring this program to the public. Commissioner Farmer added that this program is one of their most popular requests for schools and farm communities. He noted they feel they are beginning to make a great deal of headway in farm safety.

There being no further the business was adjourned.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Minutes of the 5th Meeting of the 2008 Interim October 8, 2008

The 5th meeting of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, October 8, 2008, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Jim Gooch Jr., Co-Chair, and Tom McKee, Co-Chair; Senators David E. Boswell, Ernie Harris, Dan Kelly, Bob Leeper, Vernie McGaha, Brandon Smith, and Damon Thayer; Representatives Royce W. Adams, John A. Arnold Jr., Dwight D. Butler, Hubert Collins, James R. Comer Jr., Tim Couch, Mike Denham, C. B. Embry Jr., Keith Hall, Richard Henderson, Jimmy Higdon, Charlie Hoffman, Brad Montell, Fred Nesler, David Osborne, Sannie Overly, Don Pasley, Tanya Pullin, Marie Rader, Rick Rand, Tom Riner, Steven Rudy, Dottie Sims, Jim Stewart III, Greg Stumbo, Tommy Turner, Ken Upchurch, Robin L. Webb, and Susan Westrom.

Legislative Guests: Representatives Jody Richards and Rick Nelson.

Guests: Aaron Reding and Jack Trumbo, Kentucky Soybean Association; Todd Barlow, Kentucky Corn Growers Association; Jim Akers, Kentucky Cattlemen's Association; Mike Ovesen, Kentucky Pork Producers; Dr. Tony Pescatore, Kentucky Poultry Federation; Maury Cox, Kentucky Dairy Development Council; Jim Corum, Don Girtton,

J.G. Kuhns, J. Henry Duncan, Joe Ball, and Jessica Jones, Kentucky Woodland Owners Association; Bob Bauer, Kentucky Forest Industries Association; Leah MacSwords and Steve Bullard, Kentucky Division of Forestry; Sandy Gruzesky, Alan Grant, Ron Price, and Peter Goodman, Kentucky Division of Water.

LRC Staff: Tanya Monsanto, Lowell Atchley, Stefan Kasacavage, and Kelly Blevins.

A quorum being present, Rep. McKee commenced the meeting with a moment of silence in memory of Rep. Larry Belcher who was killed in a tragic car accident over the weekend. Then Rep. McKee discussed a resolution pertaining requesting the federal government to declare parts of Kentucky a disaster after prolonged drought. After a motion and second, the resolution was adopted. Then, Rep. Gooch discussed a committee resolution relating to recent actions by former vice president Al Gore to encourage civil disobedience to prevent to construction of new coal fired power plants. The resolution calls for civil order and ignore such calls for disobedience. After a motion and second, the resolution was adopted.

Rep. Collins mentioned that people try to step outside of the legal policy process rather than accept what the policy results. Sen. Boswell stated that bipartisanship is important in the energy issue and there should not be disorder. Then, both Sen. Kelly and Rep. Nesler introduced guests. Rep. McKee then invited the Soybean Association to provide testimony.

Aaron Reding and Jack Trumbo discussed animal agriculture and the association's partnership with the industry. Livestock, poultry and soybeans work to produce healthy animals. Then the speakers discussed the economic impact of the industry in terms of earnings and employment. Then they described efforts to undermine animal agriculture by pressing for bans on crate barns, gestation stall and other aspects of factory farming. They calls for efforts to prevent unnecessary restrictions and welcomed reasonable regulation.

Rep. Nesler asked about their position on county wide planning and zoning. Mr. Reding responded that the association is in favor of any zoning that allows for necessary building. Rep. Riner asked about imports from Mexico where factory farm techniques are commonplace. Mr. Trumbo stated there are factory farms in Mexico. The facilities are geared for peak production. Rep. Riner continued stating that a resolution should be crafted requiring country of origin on those products.

Then Todd Barlow, representing the corn and small grain growers, provided testimony. Mr. Barlow stated that his perspective is from those in row crops. Kentucky is unique in the way commodity organizations work together. Then, Mr. Barlow offered some statistics in

terms of percentage of crop that went to livestock both in the United States and in Kentucky. He stated only 15 percent went to ethanol and 17 percent is exported. The association has set aside funds for research and for the promotion of meat, pork and lamb overseas. Additional money was set aside for poultry marketing overseas. Then, Mr. Barlow discussed recruitment and retention of dairies in Kentucky. Finally he discussed a couple of legislative proposals. First, allow 150 miles of haulage of farm products in-state without a commercial driver's license. Second, increase the limit on the grain indemnity fund to over \$150,000.

Rep. McKee asked if fuel and food can be produced simultaneously. Mr. Barlow stated yes. Rep. Webb asked about the specific problem with the CDL. Is the process too hard? Mr. Barlow responded that there may be some alternative process rather than doing away with the CDL. It is an inconvenience for farmers. Rep. Stumbo asked what percentage of the corn crop is covered by insurance. Mr. Barlow stated that the percentage of crop insurance is high on paper but is worthless in practicality because of the lack of good coverage. Other government programs exist, but for example, the farm bill support isn't timely enough.

Then, Jim Akers with the Kentucky Cattleman's Association described the cattle industry. Mr. Akers stated that Kentucky has been insulated from the wholesale reduction in cow herds felt across the country. Mr. Akers continued that the industry is not immune from the types of policy assaults from the animal rights community. However, we have ensured that there is compliance with the handling of animals. Rep. Steward asked whether Bluegrass Stockyards is disinfected. Mr. Akers replied no because disinfection does not work adequately in facilities with a dirt floor. We do disinfect water and veterinary facilities. Rep. Steward furthered that in Virginia the stockyards are disinfected and that Kentucky has some of the nastiest stockyards in the nation. He stated that disinfection would help with cattle sickness and make them more attractive to buyers. Finally, Rep. Stewart asked if the association would be against identifying all the sellers on receipts. Mr. Akers responded that he objects to listing sellers on paper. Regarding the disinfection process, the science shows that large scale disinfection is not economically efficient, but they welcome economic assistance with disinfection.

Rep. Webb asked about cattle thefts and the process for ensuring stolen cattle do not end up in their markets. Mr. Akers stated that there are tight controls. It would not be possible to sell the stolen cattle.

Mike Ovesen, Kentucky Pork Producers Association, provided information about the pork industry. He stated

that animal cruelty has been one of the biggest issues for pork producers. Pork producers have a lot of large farms in Kentucky and then he described the relationship between pork producers and the grain farmers. Mr. Ovesen described a quality assurance program and a trucker quality assurance program, and separate auditing of facilities as reasons for maintaining the quality in pork production.

Rep. McKee asked if there are a decreasing number of swine facilities. Mr. Ovesen replied that producers are consolidating so they have access to capital; however the feeder pig industry has all but disappeared. Sen. Kelly stated that the pork producers association has done a commendable job. Mr. Ovesen agreed and stated that the pork industry is complex. Today, the citizen oftentimes is so removed from the realities of agricultural production.

Joe Pescatore, poultry extension specialist with the University of Kentucky, agricultural extension, provided remarks concerning the poultry industry in Kentucky. He stated that poultry is the number one food commodity in Kentucky. It is an \$843 million dollar industry. Dr. Pescatore agreed that there needs to be an increase in weight limits so that trucks can haul to and from the farms.

Then Maury Cox with the Dairy Development Council described the dairy industry. He stated that dairy ranks 4th in terms of farm gate receipts. The dairy losses are significant today. We have 90,000 dairy cows in Kentucky, but we are experiencing a loss in processing milk. Kentucky can process 2.5 billion gallons, but we are only producing roughly half that amount. Milk prices continue to decline even as the milk to feed ratio tightens. This indicates a tougher time for farmers. Milk is coming in from other states and the reason the raw milk isn't processed here is that it is cheaper to transport the processed milk to Kentucky.

Sen. Harris asked if there is a premium for butter fat over 3.5%. Yes, replied Mr. Cox. The butter fat price is figured in the price of the milk. Then, Rep. McKee asked for a motion and a second for the approval of the July minutes. The minutes were approved. Then, co-chairs from the three subcommittees gave their subcommittee reports. After a motion and a second, all three reports were approved.

Jim Corum and Don Girton discussed the state of the forest industry in Kentucky. He described the groups that provided input to the findings of the presentation which included the Kentucky Woodland Owners Association, Kentucky Forest Industries, Kentucky Farm Bureau, and the Division of Forestry. Then, Mr. Corum described the industry in terms of its productivity and economic value and made recommendations on how to improve the economic impact of that industry.

Rep. Nesler asked who produces and collects fines for the bad actor list. Why aren't they collecting? Mr. Corum stated that it is not clearly understood. Then, Leah McSwords with the Division of Forestry explained that the problem is in disregard by the bad actors. The division goes through a civil process and must locate the logger's assets. Also, the division cannot impose a cease and desist order, so they are not stopped if the fines aren't paid. Finally there are no criminal penalties.

Rep. Nelson asked who writes citations. Ms. McSwords replied the Division of Forestry inspects and issues violations for noncompliance. A question was raised about the number of bad actors in the Eastern versus Western parts of Kentucky. Ms. McSwords continued that the difference between the two regions is due to how timber buyers impose discipline on the sellers. The buyers impose pressure on the sellers and this doesn't occur in the Eastern part of the state.

Rep. Pullin asked about losses from wildfires. Ms. McSwords stated there is no grand total, but roughly \$2-3 million is spend on fire suppression. Rep. Denham asked for a copy of the PowerPoint and then introduced a guest. He also asked about the conditions in Eastern Kentucky. Ms. McSwords discussed the current burn bans and explained that while there are conditions of dryness, most of the fires are deliberately set.

Rep. Denham commended the Division of Forestry for their efforts and Rep. McKee thanked Rep. Nelson for bringing this issue to the committee's attention. Rep. Nelson stated that Speaker Richards has approved a House Task Force on the Forestry issue and invited Senate colleagues to participate in a joint task force on woodland issues. This industry has a \$4.6 billion dollar impact on the state.

Rep. Collins stated that the bad actor list doesn't describe the county and the violation and furthered that the violation could be corrected with consultation. The Division of Forestry retorted that the Forest Conservation Act was set up in the manner he described. First we talk with the violator, and then we issue a warning and then offer an informal conference. If after warning and consultation the violation continues then the division issues a notice of violation and set a period of time for correction. Only after that time is lapsed does the division issue a violation and determine a fine. That is ample consultation.

Rep. Webb stated there were concerns crafting that act, but no complaints have since been received. The budget for Natural Resources took a hard hit and Forestry was cut severely. They need money. Then Rep. Collins asked Darin Moore to discuss a regulation involved elk depredation permits. Rep. Turner then expressed anger that he and Rep. Collins were not consulted on the development of the regulation. Both indicated that there was a formal agree-

ment to do so. Then Rep. McKee asked Mr. Moore if the Kentucky Department of Fish and Wildlife Resources would agree to a deferral and the agency agreed. The regulation 301 KAR 2:132 was deferred until the next meeting. The committee adjourned at 3:15pm.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Subcommittee on Horse Farming Minutes of the 3rd Meeting of the 2008 Interim October 8, 2008

The 3rd meeting of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, October 8, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Susan Westrom, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Lisa Underwood, Jamie Eads, Mary Scollay, Mark Guilfoil, and Patricia Cooksey, Kentucky Horse Racing Commission; Ginny Grulke, Kentucky Horse Council; and Katie Wilkerson, University of Kentucky student.

LRC Staff: Lowell Atchley and Katie Carney.

The presiding chair, Representative Susan Westrom, called the meeting to order. Minutes of the July 9, 2008 meeting were approved, without objection, by voice vote upon a motion by Representative Pasley.

Co-chair Westrom invited representatives of the Kentucky Horse Racing Commission (KHRC) to introduce themselves to the subcommittee. Appearing were: Ms. Lisa Underwood, Executive Director, Dr. Mary Scollay, DVM, Equine Medical Director, and Ms. Jamie Eads, Director of Incentives Development.

Beginning first, Ms. Underwood made some initial remarks and then discussed a wide range of issues affecting the agency since last reporting to the subcommittee. Ms. Underwood noted this year had been a tough one for the horse racing industry, with some high profile incidents that cast the industry in a negative light, prompting discussion of federal regulation of the industry. But Kentucky is in the best position to regulate the industry in the state, according to the speaker.

Regarding the high profile incidents, Ms. Underwood said the commission was able to act quickly and the industry itself banded together.

Next, Ms. Underwood reviewed some issues before the commission, including the issuance of Spanish language licenses and the posting of poli-

cies in Spanish; Internet-based licensing; phased-in mandatory fingerprinting beginning with trainers; background checks on several types of horse racing licenses; a revamping of the licensing regulation, bringing it in line with a national model; an increase in fees for certain classes of licensees; and balancing of the Kentucky Thoroughbred Development.

Ms. Underwood made note of the restructuring of the agency and the creation of the Governor's Task Force on the Future of Horse Racing and the establishment of some task force working subcommittees; KHRC's creation in May of a Safety and Welfare Committee, which has made several recommendations to the full committee that included the elimination of toe grabs on horses and introduction of a standardbred whipping rule. The Safety and Welfare Committee is working on other rules, including one affecting thoroughbred riding crops, according to Ms. Underwood.

On the issue of medications, she pointed out one of the most high profile action was the banning of anabolic steroids in race horses.

She said the task force has been working on agency funding and staffing issues and will be making some recommendations in that regard.

The KHRC will have a \$5,000 deficit in its budget this fiscal year, but faces a \$613,000 deficit in FY 2010, according to the speaker. She said they are looking at limiting the deficit and not adding staff. Ms. Underwood pointed out that the commission does not receive money for operations from Breeders' Incentive Program tax receipts.

Regarding funding, Ms. Underwood said the commission started assessing race tracks again beginning in August. That will give the agency \$355,000 for its budget this fiscal year and \$407,000 in FY 2010. Licenses fees for certain classes will increase from \$100 to \$150 for those in the thoroughbred industry, and from \$100 to \$125 for those in the standardbred industry under the new administrative regulation. Those increases should generate \$258,000 in FY 2009 and \$478,000 in FY 2010, the speaker said.

Next, Dr. Scollay addressed some of the issues in which she is involved, including medication regulation, anabolic steroid control, the equine industry database, and the necropsy program.

Dr. Scollay told the subcommittee that few substances may be identified exclusively as either therapeutic or non-therapeutic, and, in most cases, determining a substance's legitimacy requires contextual analysis.

She reviewed the timetable for banning the presence of anabolic steroids in race horses. The Governor signed an emergency administrative regulation in September, putting the ban in effect. The ban provides for some conditional therapeutic administration, but with a required interlude from treatment until

racing. According to Dr. Scollay, the ban will be phased in over 90 days to avoid affecting horses that received administrations of anabolic steroids prior to the signing of the emergency regulation.

Dr. Scollay discussed the equine injury database. According to the speaker, 75 tracks nationwide, representing 78 percent of race starts, have agreed to take part in supplying injury. Information may be reported on-line. She said they are working on a training/non-race related injury reporting pilot project. Among issues identified were that an inconsistency exists between racing jurisdictions with regard to reporting, and there exists a need to collect training injury data.

Dr. Scollay also went over the status of the necropsy program, which represents an attempt to establish a mandatory necropsy program for all horses that die or are euthanized at facilities licensed by the KHRC.

Next, Ms. Eads presented a written report on the three facets of the Breeders' Incentive Program – the thoroughbred fund, the standardbred fund, and the horse breeders' fund, consisting of mostly non-race breeds.

According to the report, an estimated \$16 million will be awarded this year in the thoroughbred category. A total of 11,742 mares were registered in the program by August 2008, an increase of 457, and for the second year in a row, Kentucky showed an increase in mares bred, even as overall industry activity declined.

The centerpiece of the Standardbred Breeders' Incentive Fund is the Kentucky Sire Stakes, which had purses totaling \$3,351,000, according to the report, which indicated a recommendation is that the same purse structure should be maintained in 2009.

The report showed that \$1,370,007 was allocated in the non-race breed category in 2007. The quarterhorse segment received \$446,629 of the non-race funds.

Following their reports, Ms. Underwood said she would provide data to Representative Riner, who asked how Kentucky's racing license fees compare with other states.

Ms. Underwood told Representative Pasley that the commission operates the Breeders' Incentive Program with funds generated from registration fees assessed on horse owners, not from stud fee sales tax receipts coming into program. She said the racing license fees will go toward commission operations.

Representative Pasley observed that the tobacco settlement program allows program administrators to take a 5 percent fee for running projects. Ms. Underwood responded that, thus far, they have operated the Breeders' Incentive Program with registration fees and they have avoided using tax moneys used to pay bonuses the incentive program.

Speaking further, Representative Pasley said he was concerned that the

General Assembly will be blamed for the license fee increases.

Senator Thayer pointed out that, by statute, the commission may use money from the stud fee sales tax receipts that go into the Breeders' Incentive Program to run the program. However, the goal from the regulatory level was to not tap into the money so it could be distributed as reward payments to those in the horse industry, according to the senator. He said most horse industry representatives are glad to pay the \$50 eligibility fee, which goes toward administration.

Senator Thayer said he was contemplating legislation to eliminate the ability of the commission to use a portion of the breeders' incentive funds since the registration fee arrangement has worked so well.

Responding to Representative Adams, Ms. Underwood said the commission was operating on reserve funds, but will exhaust those funds at some point, creating a deficit. She said the agency had \$600,000 in reserves carried forward.

Commenting on the license fee increases, Representative Osborne said the \$100 fee had been in existence for some time.

According to Representative Osborne, he has a number of horse racing partners from other parts of the United States who have faced breakdowns in dealing with the National Racing Compact (an independent interstate licensing organization). Ms. Underwood said she had heard the complaints before and had raised the issue with the Association of Racing Commissioners International (RCI). Representative Osborne responded that licenses seem only to be produced when requested.

Ms. Underwood also said she would provide some information to Representative Osborne regarding how many non-race breed associations are awarding money outside Kentucky.

Co-chair Westrom cited statistics in the KHRC report that indicated Oklahoma had experienced a 17-plus percent increase in the number of live foals born in 2008 compared to 2007. Ms. Underwood said one aspect of the task force is to review the Breeders' Incentive Program to assure that it remains competitive with other states. Ms. Underwood said she would obtain that information for the subcommittee.

Ms. Underwood responded to Co-chair Westrom, who asked about the necessity of fingerprinting licensees. Other jurisdictions fingerprint all licensees, but Kentucky is starting with trainers, Ms. Underwood said. As for background checks, they want to make sure that the people participating in the sport do not have a criminal background, and that they have not fixed races or used drugs. She said the background checks will be processed through an RCI database. People denied a license may appeal, she said.

Speaking next, Senator Thayer com-

plimented Ms. Underwood on the hiring of Dr. Scollay and Ms. Eads.

He said the Breeders' Incentive Program has been successful, as exemplified by increases in thoroughbred breeding and the growth of the quarterhorse industry in the state.

Senator Thayer said he is opposed to federal regulation of horse racing. He mentioned Kentucky's leadership in the racing industry.

The senator discussed his involvement in KHRC funding issues and in pursuing legislation in that regard. According to Senator Thayer, Kentucky apparently is the only state that assesses tracks a fee to generate funds that, in turn, are used in their regulation. He said the assessment, based on the number of racing dates, is unfair to Ellis Park and Turfway because they have the most racing days, but are struggling financially.

Senator Thayer said he will be working with a colleague in the Senate on legislation to remove the assessment procedure from statutes and, in turn, direct \$5-\$6 million from the pari-mutuel tax into a revolving fund to be used by the commission for its operations. Responding to Ms. Underwood's observation that the pari-mutuel tax is subject to decline, Senator Thayer said that, while not consistent, the funding source would be better than what is currently available.

Before the meeting ended, Co-chair Westrom noted it was irresponsible to not provide the needed funding to the commission.

Documents distributed during the subcommittee are available with meeting materials in the LRC Library. The meeting ended at approximately 11:15 a.m.

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

The 2nd meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, October 8, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Mike Denham, Co-Chair; Senator Bob Leeper; Representatives Dwight D. Butler, James R. Comer Jr., C. B. Embry Jr., Marie Rader, Steven Rudy, and Tommy Turner.

Guests: Dr. David Freshwater, University of Kentucky, Department of Agriculture; Roger Thomas, Governor's Office of Agricultural Policy (GOAP); Mitchell W. Whittle, Farm Loan Chief, United States Department of Agriculture

(USDA) Farm Services Agency (FSA); Robert Monk, Farm Credit Services (FCS); Mark Farrow, Kentucky Department of Agriculture, Mike Haydon, Governor's Office; Drew Graham, University of Kentucky, and House Speaker Jody Richards.

LRC Staff: Tanya Monsanto, Committee Staff Administrator and Susan Spoonamore, Committee Assistant.

The minutes for July 9, 2008 were not approved due to the lack of a quorum. Then, Chairman Denham invited Dr. David Freshwater, University of Kentucky's Department of Agriculture to provide testimony. He explained the steps that triggered the world-wide financial crisis, and the crisis's effect on Kentucky's agriculture. Dr. Freshwater said that the difference between the financial crisis now and that of the 1980's, is the decline in home prices. Today, the decline in home prices initially affected investors and providers of financial derivatives that were based upon the performance of securitized pools of home mortgages. From there, the crisis has spread to almost all major financial transactions in the United States. The financial crisis has reached global proportions and it is affecting credit and economic conditions.

Dr. Freshwater continued that on paper, agriculture appears to be in good shape due to low debt levels and strong incomes which are the result of government payments and high commodity prices. However, in the last five years, farmland has rapidly increased in value. If the value of farmland declines, then it will leave lenders under-secured.

Rep. Denham asked Dr. Freshwater to define a financial derivative or mortgage backed security. Dr. Freshwater stated that the mortgage originated by a local bank is sold, pooled, and packaged by a bank like Fannie Mae or Freddie Mac as a security. The security can be sold in the financial markets and people buy them.

Rep. Denham asked if the trading in derivatives triggered the losses and the financial crisis. Dr. Freshwater stated yes but qualified that first came the drop in housing prices and then the problems with trading.

Then Dr. Freshwater described the four major sources of agricultural credit: commercial banks, dealer credit, farm credit system and life insurance companies. There are also government loan guarantees but these are not originated loans. The four major sources get their money from Wall Street and farmers are exposed to risk because of the connection between Wall Street and those sources of agricultural credit. Then Dr. Freshwater described the origins of the 1980 agricultural crisis which was due predominantly to a drop in farmland values. The decline in farmland values resulted in defaults and triggered successive bailouts in the 1980s.

Rep. Denham asked if Freddie and Fannie Mae were a result of the savings

and loan crisis and part of the commercial bank's secondary market. Dr. Freshwater stated yes. Farmer Mac was the secondary market for the farm credit banks. Then Dr. Freshwater explained the importance of debt relative to payment capacity as a way to measure to soundness of current lending. From 1975 to 1979 the debt repayment ratio was around where it is today, but does that does not reveal some underlying concerns. First, the potential overvaluation of farmland could result in under secured loans if farmland prices fall. Second, the diminution of tobacco, thoroughbreds, and textiles as sources of Kentucky-specific revenue could leave farmers much more exposed than in the 1980s farm crisis. Third, dealer credit may tighten, and interest rates likely will increase. Fourth, there will be less federal money for agriculture as funds are used for the general bailout.

Rep. Denham asked where price increases will occur. Dr. Freshwater said cattle.

Sen. McGaha asked about the relationship of agriculture to input prices like fertilizer. Dr. Freshwater stated that fertilizer prices are likely to drop rapidly in the future. It will drop faster than equipment and seed.

Issues that concerned Dr. Freshwater were:

The massive amounts of money that the Federal government is spending which may have an impact on future interest rates;

Loss in support for agriculture with an emerging tight budget;

The global recession which appears to be causing commodity prices to fall; and

Farm input costs which have increased rapidly and are unlikely to fall as fast as farm product prices.

Then, Rep. Denham invited Roger Thomas from the Governor's Office of Agricultural Policy (GOAP) to provide a description of the financing options offered through the Agricultural Finance Corporation. Mr. Thomas focused on two programs, beginning farmer and infrastructure lending. Mr. Thomas described when the agricultural finance lending programs were initiated and the number and performance of loans since inception. Mr. Thomas described an increase in loans in both programs since December 1, 2007 which he attributed to changes in how the programs operated. He explained that both programs are participation loans which rely on local lenders to recommend applicants. Low interest loans are provided through the program and Mr. Thomas described the importance of the program.

Rep. Denham asked what the beginning farmer loans are used for. Mr. Thomas stated that they are for various types of farm operations such as poultry and dairy and can be used to purchase equipment. Rep. Denham asked for the same for infrastructure loans which Mr. Thomas described in terms of different

types of commodity operations and then he said some money has been used to build tobacco barns.

Rep. Rader asked about the future of the grape market. Mr. Thomas stated that Agricultural Finance Corporation has not made direct loans for grape production but the Agricultural development board has awarded funds to grape growers. Rep. Rader further asked about the requirements for a beginning farmer loan. Mr. Thomas described some of the requirements and stated that other information would be provided to the committee. Finally Rep. Rader asked about the reduction of agricultural programs in schools. Mr. Thomas stated that in the strategic plan for agriculture, agricultural programs in schools are a priority. However, change in this trend will require action by the General Assembly.

Rep. Denham then recognized Speaker Richards in the audience. Sen. Leeper commented that some programs for agriculture are abused like the PACE program. He asked if safeguards are in place to prevent misuse of funds. Mr. Thomas replied yes and then he discussed the recent audit of the board. Rep. Rudy asked how GOAP has promoted its loans. Mr. Thomas stated through newsletters, electronic messages, and new brochures. Rep. Rudy stated that it would be good to bring those messages into the secondary and postsecondary schools.

Sen. McGaha asked about loan caps. Mr. Thomas stated there was a \$100,000 cap for both types of loans which was raised to \$250,000 and this is the reasons for the increased participation during 2008.

Rep. Denham invited Mr. Mitchell Whittle with USDA Farm Services Agency (FSA) to describe the agency and its role in farm lending. Mr. Whittle stated that FSA has been making loans for 25 years and has over 10,500 borrowers. Then he described the number of loans by farm type stating that tobacco and dairy have declined while poultry and goats have increased. The Kentucky FSA has 4300 borrowers have approved \$90.6 million in loans. There are 18 farm lending teams around the state.

Rep. Denham asked whether there is additional money from USDA under other programs. Mr. Whittle said yes. Rep. Embry asked about disadvantaged farmers. Mr. Whittle stated that FSA has not made a loan to date for socially disadvantaged farmers. Rep. Embry asked if you can be white and disadvantaged, and Mr. Whittle replied no. Then Mr. Whittle stated that he shares concerns stated by Dr. Freshwater concerning increases in interest rates and its impact on agriculture.

Rep. McGaha asked about the difference in beginning farmer definitions for FSA and GOAP. Mr. Whittle stated they are similar and that the cap for the loan is \$225,000.

Then Mr. Robert Monk provided a description of the farm credit services

(FCS) and its relationship to GOAP. He stated that FCS of MidAmerica is part of the farm credit system under federal charter. It provides products not otherwise available such as fixed rate mortgages on farms at competitive rates. He described the offices and locations, customer base and loans outstanding. He stated that the funds for loans come from farm credit bonds let through the farm credit funding system. Delinquencies on loans are under 1 percent and a specialized staff to assist distressed borrowers. Then Mr. Monk described some concerns shared by Dr. Freshwater such as overall economic declines, significance of revenues after 2 years of drought, impact of oil prices and over reaction by regulators.

He continued that business start ups and weaker credit customers will have more problems. Loans will still be available for credit worthy rural borrowers. Loans will cost more and lenders will use more due diligence in applications. Collateral requirements will be tougher and equipment and farm land values may soften. Risky loans won't be made.

Rep. Denham asked about the Federal Reserve's recent expectation of a 40% drop in values. Does FCS have problems selling bonds? Mr. Monk responded no but the cost of letting those bonds has gone up. He continued that there are a couple of pertinent differences between the 1980 farm crisis and today. There is a higher percentage of farm mortgages that are fixed rather than adjustable rate. Also operations are more consolidated than in the 1980s. They should be more secure as a result.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 1st Meeting of the 2008 Interim August 28, 2008

The 1st meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 28, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Harry Moberly Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Charlie Borders, Co-Chair; Representative Harry Moberly Jr., Co-Chair; Senators David E. Boswell, Tom Buford, Denise Harper Angel, Ernie Harris, Dan Kelly, Bob Leeper, Vernie McGaha, R.J. Palmer II, Tim Shaughnessy, Brandon Smith, Robert Stivers II, Gary Tapp, Elizabeth Tori, and Jack Westwood; Representatives Royce W. Adams, John A. Arnold Jr., Scott W. Brinkman, Dwight D. Butler, Larry Clark, James R. Comer Jr., Jesse Crenshaw, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Keith Hall, Jimmy Higdon, Jimmie Lee, Rick G. Nelson, Fred Nesler, Don Pasley, Marie Rader, Rick Rand, Charles Siler, Arnold Simpson, John Will Stacy, Tommy

Turner, John Vincent, Jim Wayne, Robin L. Webb, and Brent Yonts.

Guests: Commissioner Thomas Miller, Department of Revenue; Mary Lassiter, State Budget Director; Jim Host, Chairman, Louisville Arena Authority.

LRC Staff: John Scott, Jennifer Hays, Eric Kennedy, and Sheri Mahan

Chairman Moberly welcomed the new Commissioner Thomas Miller of the Department of Revenue and asked him to briefly address the committee. Commissioner Miller greeted the members and briefly discussed his vision for the Department of Revenue.

Next, Mr. Jim Host, Chairman of the Louisville Arena Authority, updated the committee regarding the Louisville Arena Project. Mr. Host detailed the history of the project and discussed the current status of the property, construction contracts, and financing.

Finally, State Budget Director Mary Lassiter, John Hicks, and Greg Harkenrider reported to the committee on state revenue receipts and implemented cost saving measures. She stated that the General Fund grew in Fiscal Year (FY) 08 by 1.1%, which resulted in total revenues of \$8,664.3 million for the year. This amount was \$28 million greater for FY 08 than General Fund receipts anticipated by the Consensus Forecasting Group (CFG).

Director Lassiter then discussed the current budgetary view. She stated that there was \$28 million in revenues greater than what was budgeted and that there were \$7.8 million in unbudgeted appropriation lapses. This resulted in a potential \$35.8 million General Fund surplus, but when fund transfers, dedicated revenues greater than those budgeted, and unbudgeted expenditures are taken into account there is a \$22.7 million General Fund surplus. She stated that by statute 50% of the surplus must be deposited into the Budget Reserve Trust Fund and the remainder into the General Fund Surplus Account. Director Lassiter stated that the Budget Reserve Trust Fund currently has a balance of \$226.1 million, with an unobligated balance of \$35 million.

Director Lassiter discussed the General Fund revenue growth. She said that the growth for FY 08 was 1.1%. She then stated that the estimated growth for FY 09 is 2.6% and for FY 10 is 2.8%. General fund receipts for July 08 were \$646 million, which is 1.9% growth over July 07.

Next, Director Lassiter discussed the Road Fund receipts and future outlook. She stated that the Road Fund grew by 3% in FY 08 to \$1,262 million, with a majority of the funds coming from motor fuels and motor vehicle usage taxes. Even with the growth, the FY 08 Road Fund receipts were below revised CFG estimates. The Road Fund had \$20 million less in revenues than were budgeted, but the Fund had \$47 less in expenditures than were budgeted. She stated

that this left the Fund with an ending balance of \$27.2 million. Director Lassiter said that the majority of growth in the Road Fund was due to the increase in the motor fuels tax.

Finally, Director Lassiter discussed budget planning for FY 09 and current cost saving efforts. She said that state agencies are focusing more on the core mission of that agency, and focusing their resources in way that best meet that mission. Agencies are reducing operating costs in various ways, such as reductions in travel, office supplies, contracts, office space, and use of state cars. She stated that HB 406 required \$179.9 million in General Fund expenditure reductions, and measures to meet this mandate have included reduction in personnel costs through attrition and retirements, reduction in excess debt service, implementation of efficiencies and cost-saving measures, and debt restructuring. She discussed the Governor's objectives and desire to preserve budget priorities. She also discussed preliminary plan to balance the FY 09 budget, and provided on update on state government retirements.

Chairman Moberly addressed the committee regarding a resolution honoring Ruth Webb's service to the Appropriations and Revenue Committee and the General Assembly. Chairman Borders read the resolution and the committee unanimously adopted the resolution.

Being no further business, the meeting was adjourned at 3:30 p.m.

A copy of meeting materials is available in the Legislative Research Commission library, and a video tape of the meeting is available from the Legislative Research Commission Public Information Office.

**INTERIM JOINT COMMITTEE
ON APPROPRIATIONS AND
REVENUE**

**Minutes of the 2nd Meeting
of the 2008 Interim
September 22, 2008**

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 22, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Charlie Borders, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Charlie Borders, Co-Chair; Representative Harry Moberly Jr., Co-Chair; Senators David E. Boswell, Denise Harper Angel, Ernie Harris, Dan Kelly, Alice Forgy Kerr, Bob Leeper, R.J. Palmer II, Richie Sanders Jr, Tim Shaughnessy, Brandon Smith, Gary Tapp, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives Royce W. Adams, Dwight D. Butler, Larry Clark, James R. Comer Jr., Jesse Crenshaw, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Keith Hall, Jimmy Higdon, Jimmie Lee, Lonnie Napier, Fred

Nesler, Don Pasley, Charles Siler, Arnold Simpson, John Will Stacy, Tommy Turner, Robin L. Webb, and Brent Yonts.

Guests: Commissioner Donna Duncan, Department of Financial Incentives, Cabinet for Economic Development; Kris Kimel, Kentucky Science and Technology Corporation; Secretary Len Peter, Energy and Environment Cabinet; Dr. Rodney Andrews, Director of the Center for Applied Energy Research; Dr. Jim Cobb, Director of the Kentucky Geological Survey; Paul Kaplin, Finance and Administration Cabinet.

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

Senator Boswell moved that the minutes from the previous meeting be approved as written. The motion was seconded by Senator Harper-Angel. The motion carried by voice vote.

Commissioner Donna Duncan of the Department of Financial Incentives provided the committee with an update of energy projects approved to date under the Energy Independence Act (HB 1). She discussed the project review process, as defined in statute. She stated that the Incentives for Energy Independence Act (IEIA) program is different from other economic incentive programs in concept and process. This program does not require the Cabinet to have in-house energy technology expertise, but rather relies on the Office of Energy Police and the Center for Applied Energy Research as consultants.

Commissioner Duncan discussed the eligibility requirement for companies and projects. She stated that any project that constructs, retrofits, or upgrades a facility to increase production and sale of alternative transportation fuels would meet the requirements. Also, a company that would increase the production and sale of synthetic natural gas, chemicals, chemical feed stock, or liquid fuels from coal, biomass resources or waste coal through gasification or generates electricity for sale through alternative methods would meet the requirements for incentives. Each type of project has certain requirements, such as a minimum capital investment, carbon capture readiness, or minimum kilowatt generation.

Next, Commissioner Duncan discussed the different incentives available to companies meeting project requirements. She stated that tax incentives are available for up to 25 years and up to a maximum of 50% of the capital investment. The various tax incentives include sales and use tax refunds, coal severance tax incentives, corporate income or limited liability entity tax incentives, and wage assessment incentives. She said that some projects may qualify for advanced disbursement of the incentives which is structured like a loan where the future tax incentives earned are used to repay the loan.

Commissioner Duncan provided a basic outline of the approval process and

how it flows through the Department of Financial Incentives. She ended by discussing the six projects which have been given preliminary approval to receive IEIA incentives.

Representative Webb asked how many projects have been denied. Commissioner Duncan replied that none to date have been denied, but there are several companies who are still under consideration because of some technical questions regarding the project.

Representative Denham asked for a description of the types of companies that are applying for the IEIA incentives. Commissioner Duncan answered that most companies are partnerships newly registered with the state.

Next, Mr. Kris Kimel and Mr. Matt McGarvey of the Kentucky Science and Technology Corporation provided an overview of the venture capital start up program established under HB 1. He stated that intent of the Kentucky New Energy Venture Fund (KNEV) is to encourage the growth of new alternative and renewable energy companies. He said that the fund is managed by the Kentucky Science and Technology Corporation (KSTC) and administered by the Department for Commercialization and Innovation (DCI). The guidelines for application and approval for funds were established by KSTC and approved by DCI.

Next, Mr. Kimel provided more detail, discussing the statutory definition of alternative fuels and renewable energies. He also discussed KNEV eligibility requirements, which include that the company be a high growth opportunity, developing and commercializing alternative fuels and renewable energy products, processes, and/or services. Also, that the business' principal place of business be within Kentucky or at least 51% of its property and payroll located in Kentucky. Mr. Kimel stated that the funds may be used to support the achievement of operation milestones required to commercialize the product, which can include a business plan, market strategy, commercialization, or prototype development. The KNEV funds may be distributed through grants, investment or matching funds.

Mr. Kimel provided a timeline for the fund, stating that the first award notifications were distributed on July 7, 2008. He stated that by the first application deadline the fund received 17 applications, which included 4 investment and 13 grant applications. Mr. Kimel stated that the prospective project areas of interest include biofuel, coal, wind/solar, and other renewable projects. He then gave a brief overview of the companies who have received awards from the fund. Finally, Mr. Kimel briefly discussed alternative/renewable energy efforts in other states.

Representative Webb asked if there are factors that inhibit the receipt of applications for east Kentucky projects. Mr. Kimel stated that there have been a

number of applications to the rural development fund, and the KSTC is actively seeking applications from companies in rural and east Kentucky locations.

Senator Leeper asked what has caused the decline in applications. Mr. McGarvey stated that the fund accepts applications four times a year, which is very frequent compared with other funds. This is to make the fund as accessible as possible. He stated that there was some build up anticipation with all the press that HB 1 received so there was an initial flood of applications. He said he believes that the second application period will be more indicative of future application activity.

Senator Sanders asked how many jobs will be created by the approved projects. Mr. McGarvey replied that there is no job creations requirement for approval in KNEV funds.

Senator Boswell asked if the volatility of the energy industry is a factor for companies considering entering the market. Mr. Kimel replied that yes the volatility can be a factor in the decision making process for companies considering entering the energy marketplace.

Next, Secretary Len Peter of the Energy and Environment Cabinet discussed the Carbon Management Report and the Center for Renewable Energy and Environmental Stewardship. Secretary Peters provided a general overview of the Carbon Management Report, briefly discussing the need for further investigation and decisions to be made regarding the legal issues surrounding carbon sequestration. He stated that issues such as legal liability and ownership of stored CO2 need to be clarified. He discussed proposed carbon management legislation at the federal level. Secretary Peter discussed the need to utilize multiple technologies in the sequestration of carbon and gave a brief overview of several technologies for carbon management.

Secretary Peter then provided an update regarding the Center for Renewable Energy and Environmental Stewardship, stating that currently the cabinet is working on appointments to the board. The goal is for the board to meet at least twice before the coming legislative session.

Dr. Rodney Andrews, Director of the Center for Applied Energy Research (CAER), and Dr. Jim Cobb, Director of the Kentucky Geological Survey discussed the carbon sequestration project. Dr. Andrews discussed various carbon capture and mitigation projects being developed by the CAER which were funded in HB 1. The funds provided in the bill were directed to be used for the upgrade of the center's existing Fischer-Tropsch facility, the study of biomass in the production of Fischer-Tropsch fuels, the development of a biofuels laboratory at CAER, and the expansion of programs for the study of capture and utilization of carbon dioxide. He discussed how the funds are being used to leverage federal

match monies.

Dr. Andrews stated that with the funds provided the CAER has been able to double the size of its biomass/biofuels laboratory. Also, they have started a study in biological carbon capture, utilizing algae systems for scrubbing. He said that the algae system uses CO2 as feedstock and the byproduct can be converted to biodiesel. He provided further details of the process and future demonstration project. Dr. Andrews discussed the CAER's post-combustion CO2 capture pilot plant and various research projects. He also briefly discussed the Carbon Management Research Group, which is a state-CAER-industry consortium. This group will work to develop more energy and cost effective technologies, develop guidelines for technology selection for specific sites, and provide firsthand experience in CO2 capture.

Representative Hall asked if the algae process also captured sulfur dioxide (SO2) and nitrogen dioxide (NO2). Dr. Andrews stated that there are over 50,000 varieties of algae and some do consume sulfur, but further study is needed to see if SO2 and NO2 removal is achieved in the process.

Next, Dr. Jim Cobb and Mr. David Harris of the Kentucky Geological Survey (KGS) discussed CO2 sequestration research project being done under HB 1. Dr. Cobb stated that this project is the largest carbon sequestration project in the country without federal funding. He discussed the funding for the test project, stating that the total of state and industry funding totals \$14.89 million. Dr. Cobb stated that the project will be located in Hancock County and will be 8300 feet deep.

Dr. Cobb detailed the various goals for the CO2 sequestration project. He stated that the project will demonstrate CO2 storage in deep saline reservoirs in the Mt. Simon and Knox geological layers in the western part of the state. The project will also demonstrate the integrity of reservoir sealing strata for long-term storage, and appropriate technologies for the evaluation of CO2 storage. Dr. Cobb provided an overview of the drilling program for the sequestration well, and he briefly discussed the testing program and timeline. He stated that the project should be completed sometime in 2012. Dr. Cobb stated there are several oil drilling companies who have volunteered use of their depleted wells to test oil extraction enhancement utilizing CO2.

Finally, Mr. Glen Mitchell, Deputy Secretary of the Finance and Administration Cabinet, Mr. Jim Abbott, Commissioner of Facilities and Support Services, and Mr. Paul Kaplin discussed the implementation of the "Kentucky Bluegrass Turns Green" program provided for in HB 1. Mr. Kaplin discussed the requirement under HB 2 that the renovation or construction of all public buildings for which 50% or more of the total cost is

paid for by the state be designed, constructed, or renovated to meet high performance building standards. Also, high performance buildings are to be given preference in leasing by the state. He discussed the qualifications for high performance buildings and the importance of green building construction. He discussed the LEEDS, Green Globes and Energy Star rating systems for construction and energy efficiency performance. Mr. Kaplin discussed the "Kentucky Bluegrass Turns Green" program, discussing the grant fund and the private sector loan fund. He stated that the cabinet is currently drafting administrative regulations to outline the application process.

There being no further business, the meeting was adjourned at 3:10 p.m. A cassette tape of this meeting and all meeting materials are available in the Legislative Research Commission library.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 23, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Tommy Thompson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Tommy Thompson, Co-Chair; Senators Julian M. Carroll, Julie Denton, Dorsey Ridley, Dick Roeding, Dan Seum, and Tim Shaughnessy; Representatives Johnny Bell, James R. Comer Jr., Will Coursey, Ron Crimm, Ted Edmonds, Tim Firkins, Danny Ford, Jeff Greer, Mike Harmon, Dennis Horlander, Dennis Keene, John Tilley, Ken Upchurch, Ron Weston, and Susan Westrom.

Guests: Scott Brown, Director, Department of Financial Services, Debra Crocker, Staff Attorney, and Sara Boswell, Executive Counsel, Administrative Office of the Courts and Richard McQuady, Interim Chief Executive Officer, Kentucky Housing Corporation.

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

The minutes of the August 25, 2008, meeting were approved.

Scott Brown, Director, Department of Financial Services, Administrative Office of the Courts (AOC), recognized Debra Crocker, Staff Attorney and Sara Boswell, Executive Counsel, also with the Administrative Office of the Courts. Mr. Brown stated that the Administrative Office of the Courts has had oversight of the Master Commissioner foreclosure sales since 2004. He stated that the total sales reflect figures derived from the number of judicial sales fees collected.

Each time an Order Referring to Master Commissioner or Order Referring to Special Master Commissioner is filed, the Circuit Clerk collects a \$100 fee. The numbers reflect the equivalent of that fee. He stated that foreclosure sales in Kentucky were as follows: 2005 foreclosure sales 10,100; 2006 foreclosure sales 14,000; 2007 foreclosure sales 15,900 and 2008 year-to-date foreclosure sales 8,500.

Representative Ron Crimm stated that the report certainly indicates a serious problem.

Representative Tommy Thompson asked how long the foreclosure sale process is from start to finish.

Debra Crocker stated that depends on the individual Master Commissioner.

Richard McQuady, Interim Chief Executive Officer, Kentucky Housing Corporation (KHC), discussed the establishment and progress of the Kentucky Homeownership Protection Center. Mr. McQuady introduced Brenda Walker, Senior Director of the Kentucky Homeownership Protection Center. Mr. McQuady provided the committee with a report outlining the foreclosure process as well as the number of contacts, initial mortgage position, and current status of the homeowner's who have contacted the Kentucky Homeownership Protection Center. He stated that to date the Homeownership Protection Center (HPC) has received 618 contacts and has referred or completed 407. He stated that the HPC has a 48 hour turnaround on client cases made by web (www.ProtectMyKyHome.org) or call center request (800-633-8896). He stated that the HPC helps clients understand the foreclosure process, helps manage finances and attempts to protect the client investment. He stated that funding is being provided to ensure there are HPC counselors throughout the state from Kentucky Housing Corporation's budget. He also presented a report detailing the number of foreclosures by county and the total number of households in each county.

Representative Danny Ford asked if only guidance was given to clients and no financial assistance.

Mr. McQuady stated that only guidance and assistance with lenders is given to clients. He stated that they have no funds budgeted for financial assistance. He stated they have limited funds for marketing and they are trying very hard to make citizens aware of the Homeownership Protection Center. He stated that there is a similar program available through the Louisville Metro government by dialing 211.

Representative Tommy Thompson stated that the next Interim Joint Committee on Banking and Insurance meeting will be held on October 29, 2008, at 10:00 a.m., in Room 149 of the Capitol Annex. He stated that the committee will be discussing the 2009 Kentucky Employees Health Plan.

The meeting adjourned.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 4th Meeting of the 2008 Interim September 18, 2008

The 4th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, September 18, 2008, at 1:00 PM, at Camp Robert C. Webb, Grayson, Kentucky. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Eddie Ballard, Co-Chair; Senators Julie Denton, Denise Harper Angel, and Gary Tapp; Representatives Larry Belcher, Larry Clark, Leslie Combs, Mike Denham, Ted Edmonds, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Joni L. Jenkins, Dennis Keene, Thomas Kerr, Adam Koenig, Tom McKee, Brad Montell, Ruth Ann Palumbo, Don Pasley, Dottie Sims, Ancel Smith, John Will Stacy, Robin L. Webb, Ron Weston, and Addia Wuchner.

Guests: Dr. Jonathan Gassett, Commissioner, Kentucky Department of Fish and Wildlife Resources; Bill Burger, Special Assistant to the Lieutenant Governor, Office of the Lieutenant Governor; Virginia Grulke, Executive Director, Kentucky Horse Council and Chairperson, Kentucky Recreational Trails Authority; Rick Allen, President, League of Kentucky Sportsmen; Debby Spencer, Director of Tourism and Development, WMTB Corporation; and Matt Osborne, Director of Adventure Tourism, Office of the Secretary, Tourism, Arts and Heritage Cabinet.

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

A quorum being present, the meeting was called to order. A motion and second by Senator Denton and Representative Belcher to approve the minutes of the August 21, 2008, meeting passed by voice vote. Chairman Ballard thanked Representative Webb and Department of Fish and Wildlife staff for coordinating the meeting at Camp Webb. Representative Webb welcomed everyone to the facility. She explained that Camp Webb was her father's, the late Dr. Robert C. Webb, legacy. Formerly an elementary school scheduled for destruction, Dr. Webb was instrumental in preserving the area and turning it into the state's third junior conservation camp.

Senator Kerr introduced Dr. Jonathan Gassett, Commissioner of the Kentucky Department of Fish and Wildlife Resources (KDFWR). Dr. Gassett ex-

plained that a significant amount, approximately \$13 million per year, of their funding comes from an excise tax on the sale of ammunition, guns, fishing equipment, boats, etc. The mission of KDFWR through its strategic plan is to conserve and enhance fish and wildlife resources and provide opportunities for hunting, fishing, boating, trapping, and other wildlife related activities. Dr. Gassett said adventure tourism would help KDFWR achieve its mission and strategic plan objectives through funding mechanisms by increasing multi-use access areas for recreational activities throughout the state. KDFWR has been the original adventure tourism agency for 96 years. He noted that fish and wildlife activities have a state economic impact of approximately \$4.7 billion annually.

Dr. Gassett explained that the greatest obstacle to outdoor recreation activities is overcoming limited private land access. One of the agency's goals is to increase land holdings within 50 miles of the "golden triangle" by 10 percent in six years. He noted that 94 percent of Kentucky's land and water are privately owned. Seventy-three percent of Kentucky's 75 wildlife management areas were purchased with Wildlife Restoration Funds paid for by the excise tax; however, 78 percent of users of these areas are nonhunters. Dr. Gassett explained that there are land usage restrictions on land purchased with federal funds. Many wildlife management areas are leased or under cooperative agreement with the Corp of Engineers, private coal and timber companies. Dr. Gassett said part of First Lady Jane Beshear and Lieutenant Mongiardo's plan includes the possibility of having a user-pay system similar to KDFWR's. He added that KDFWR strongly supports Senate Bill (SB) 196. He said KDFWR has the resources and actively pursues land purchasing and can help promote access to recreation areas. Language in SB 196 allows KDFWR law enforcement rights on adventure tourism sites. The can also assist with technical guidance such as habitat formation and trail building. He noted that the infrastructure already exists in collecting user fees. They are currently working with the Kentucky Recreational Trails Authority to assist with regulation promulgation.

Responding to Representative Edmonds' question, Bill Burger said the licensing fee of newly purchased ATVs collected by the county court clerks will cease because it is not uniformly collected or required statewide. Statutory language would be needed to continue collecting this fee and to keep track of the sale of ATVs within the state.

Responding to Representative Edmonds' question Secretary Gassett said that KDFWR officers have full policing powers including enforcement of traffic laws, however, they are encouraged to specifically focus on Chapters 150 and 235--boating, fish and game laws.

Responding to Representative Sta-

cy's question Commissioner Gassett said approximately 90 percent of hunting occurs on private land while a majority of fishing is on public land. Representative Stacy said that, while not common knowledge, KDFWR will help private landowners improve their wildlife habitats. Commissioner Gassett said the service is available to all private landowners not just those who allow public access as it improves overall wildlife habitat.

Representative Hall commented that West Virginia has been economically successful in selling access passes to their trail system through small towns rather than large retail businesses or online. Commissioner Gassett added that this includes the Hatfield-McCoy Trail.

Next, Mr. Bill Burger, Special Assistant to the Lieutenant Governor said adventure tourism has gained a lot of public interest and their goal includes global marketing. He said the state needs to utilize its beauty and natural resources in a responsible way. The 23-member Kentucky Recreational Trails Authority (KRTA) held their first meeting and will create separate work groups of members and grassroots organizations as well. The KRTA is currently inventorying the state trail system and other adventure tourism activities using a multilayer GIS system as well as an interactive website that allows trail users to assist via GPS. Per SB 196, an MOA with Morehead State University was obtained to study the effects of ATV trespassing to be submitted to the LRC by mid-December. Also, the University of Kentucky is conducting a safety study for a workgroup of the KRTA understand causes of injuries and to develop proactive preventive measures. The KRTA is working on an adventure tourism master plan that will include all positive trail features including the information gathered through GPS to identify potential routes across the state. There are region-specific adventure tourism development issues with lakes, streams, and rivers. A trail is in progress that will enable the majority of the state to be traveled by horseback, hiking, or biking in time for the 2010 World Equestrian Games. Mr. Burger said the KRTA would like to see the Economic Development Cabinet and the Tourism, Arts and Heritage Cabinet provide incentives to individuals who want to increase the economic engines of their communities through adventure tourism.

Representative McKee expressed concern that Kentucky ranked first in ATV fatalities in recent years and asked whether the state had a higher number of ATVs in operation. Mr. Burger said the majority of deaths occurred on roadways with people not wearing helmets. Approximately 60 percent of accidents involve alcohol usage. He said training and education is a top priority for the KRTA in reducing the number of ATV deaths. Representative McKee encouraged committee members to see the Department of Agriculture's farm and ATV safety pre-

sentation.

Virginia Grulke, Executive Director, Kentucky Horse Council (KHC) and Chairperson of the Kentucky Recreational Trails Authority said the Kentucky Horse Council represents 3,000 to 4,000 members, 77 percent who trail ride. KHC is funded through the sale of the state's horse license plate. The KHC represents the non-race portion of the horse industry. She said that although Kentucky is known for horse racing, only 25 to 30 percent of horses in Kentucky are used for such. Nationally, recreational riding contributes \$31 billion to the economy or 32 percent of total impact. She said trail riding is increasing in part to due to retiring baby boomers. Many are moving to Kentucky because of Kentucky's reputation in the equine industry, the affordability of rural land, the state's central location, and temperate climate. She said riders travel through Kentucky to ride in Tennessee, Indiana and Ohio--states that recognized the benefits of trail riding several years ago.

Ms. Grulke said the four requirements for horseback trail riding are the trails themselves and related signage, hospitality services, promotion, and a ready market. She said the main challenge is the lack of public lands. Access to private land has to be a key issue and SB 196 was a big step in this direction. She stressed that signage is key to horseback riders. It is difficult to maneuver trucks and trailers on country roads, therefore, signage is critical. On trails, signage for distances, points of interest and trail intersections is essential. For a robust horse trail economy there is also a need for good hospitality services. Riders look for horse camps, trail guides, on sight services, catering, music and entertainment which are opportunities for new business in the state. Bed and barn is a new business concept for agricultural farmers.

Ms. Grulke said increased promotion is needed by adding more horse photographs in Tourism, Arts & Heritage Cabinet promotional items as well as advertising in Trail Rider and other equestrian magazine. She noted that America by Horseback is interested in featuring Kentucky's trails. She said the state needs to target regional and national trail rider associations to move their organized national rides to Kentucky. She noted that the American Endurance Ride Conference has several national rides around the country. She said the American Quarter Horse has a large trail ride scheduled in Taylorsville this year.

Ms. Grulke said, according to Trail Rider magazine, demographically riders are 71 percent female, 25 percent have a net worth of over \$500,000, 40 percent are in their 50s, 20 percent are over 60, 77 percent live in the country, 45 percent own 20 acres or more, 43 percent have living quarters with their horse trailers, and 80 percent go somewhere with their horses every month. Forty percent of all

trail riders in the U.S. are in Kentucky and its surrounding states.

Ms. Grulke said examples of successful adventure tourism initiatives include Big South Fork of Tennessee with 129 miles of hiking trails and 156 miles of horse trails that contribute \$10 million annually to local economies, Iowa's 26-mile trail which contributes \$1.2 million annually, Florida's 16 mile St. Marks Trail, contributing \$1.9 million, and Pennsylvania's Great Allegheny Passage whose impact in 1998 was \$14 million. Ms. Grulke noted that some of these trails are multi-use. She said national branding of "Horse Capital of the World" and "Unbridled Spirit is already in place. Horseback riding is a green economy and disturb the wildlife less than other types of recreation.

Responding to Co-Chair Kerr's question Ms. Grulke said carriage accessible trails are increasing and they are looking for ways to increase the number. Mr. Burger added that the adventure tourism initiative is looking toward the national Rails to Trails Program which will allow for carriage use. The state is currently working on acquiring 36 miles of rail through Magoffin, Johnson and Breathitt Counties from R.J. Corman Railroad Group.

Representative Edmonds said the funds exist to purchase the 36-mile Dawkins Line in Breathitt, Magoffin, and Johnson Counties to include in the Rails to Trails program but they need to overcome the safety concern of nearby residents.

Representative Harmon asked how the state can offer limited liability to landowners under the constitution's prohibition of limiting the ability to seek restitution. Mr. Burger said he would inquire and get back with the committee.

Representative Webb said a legal analysis was done during the drafting of HB___ that she would be glad to share. She noted the tax credit easement bill drafted with the Department of Fish and Wildlife that provide incentives to landowners for access arrangements of land use.

Representative Wuchner said the horse network is a great volunteer network for clearing and maintain trails reducing the cost to the state, communities, and landowners. Ms. Grulke added that the Horse Authority is considering an "Adopt a Trail" program for trail maintenance.

Next, Rick Allen, President of the League of Kentucky Sportsmen explained that the League, created in 1935, is the oldest sportsman association in the state and was instrumental in developing legislation that created the Department of Fish and Wildlife. He said the League supports adventure tourism and would like to be involved in the development process. He said the possibility of gaining more access to private fishing waters and more hunting ground is important to the sportsmen of Kentucky.

Mr. Allen said Minnesota and Wisconsin have highly successful programs similar to what Kentucky envisions. He said the trails are well maintained and it is a well managed program. When creating Kentucky's program the League asks that sensitive wildlife areas be identified up-front and protected. Mr. Allen noted that the League has a representative on the KRTA board.

Next, Debby Spencer explained that WMTH Corporation works with communities on economic development through tourism. Ms. Spencer said Knott County's program has developed quickly. Their goal is to create a countywide adventure tourism parks system. Currently, they have four ATV trails and four horseback riding trails. They also have a publicly accessible elk-viewing area open 24/7. Ms. Spencer said two local entrepreneurs offer saddle-up elk tours for elk viewing via horseback. Also, Knott County built a skate park and will construct a snow tubing and snowboarding area next year. She noted that Indiana's snow tubing business has 60,000 visitors annually. Ms. Spencer said Knott County built an ATV safety training center, one of five in the United States. It includes basic safety as well as a skills test area with miscellaneous surfaces and hills and includes beginners through advanced trails. She said the training center is used as a trailhead for horseback riding and ATVs and is a major site for elk viewing. It is specifically designed to allow all three activities. There are 43,000 acres with over 100 miles of horseback riding trails on reclaimed coal land. There is a full-time employee to police trails.

Ms. Spencer said she is also working in Clay and Breathitt counties developing motorcycle trails using the road system, and horse riding and bird watching trails and is developing a canoeing program in Warren County.

Matt Osborne, Director of Adventure Tourism with the Tourism, Arts and Heritage Cabinet outlined the Cabinet's activities in adventure tourism. They are working to create an inventory and to promote the existing trails in the state including traditional hiking, mountain biking, equine, and ATV trails as well as road bike trails and the Blueways. They are being mapped using GPS and GIS technology with the Office of Technology. The Cabinet is working to promote and create new opportunities for all outdoor recreation activities including rock climbing, fishing, hiking, hunting, horse riding, caving, and wildlife viewing. A master plan is being developed in coordination with existing inventory to create the optimal routes for a cross-Kentucky trail system. The KTRA will enter into partnerships with local governments and private land owners to create a multi-use trail system. The master plan will take into consideration aspects such as the aesthetic quality of a trail, as well as the environmental and economical impacts to the state. They are also study-

ing the effects of trespassing by ATVs on both private and forbidden public lands to conclude the best ways to enforce current laws and prevent trespassing in the future. The agency is also creating a universal signage program for the trail system and highways to direct tourists to trailheads and other outdoor recreation activities. Mr. Osborne said they are developing a marking strategy to best promote the current and future outdoor recreation opportunities in the state to include a strategic communications plan as well as a merchandising plan for brand awareness.

Responding to Representative Clark's question, Mr. Osborne said the urban centers of the state are leaders in outdoor recreation activities. Louisville is creating a trail and parks system that circumvents the city and contains over 100 miles of hiking and biking trails. He noted that this is the goal of the statewide master plan.

Representative Ballard asked if the western Kentucky coal companies were being responsive to state and local efforts. Ms. Spencer said they are just beginning to work with them in several counties in developing ATV trails and several horseback riding trails.

There being no further business the meeting adjourned at 2:45 PM.

INTERIM JOINT COMMITTEE ON EDUCATION Minutes of the 4th Meeting of the 2008 Interim September 8, 2008

The fourth meeting of the Interim Joint Committee on Education was held on Monday, September 8, 2008, at 1:00 PM, at Campbellsville University. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Senators Brett Guthrie, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Elizabeth Tori, and Johnny Ray Turner; Representatives Larry Belcher, Leslie Combs, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Tim Firkins, Jim Glenn, Jeff Greer, Jimmy Higdon, Reginald Meeks, Charles Miller, Harry Moberly Jr., Russ Mobley, Rick G. Nelson, Tom Riner, Carl Rollins II, Charles Siler, Dottie Sims, Alecia Webb-Edgington, and Adia Wuchner.

Guests: Jo Carole Ellis and Mr. Edward Cunningham, Kentucky Higher Education Assistance Authority; Joe Lancaster, Office of State Budget Director; Dr. Gary Cox, President, Association of Independent Kentucky Colleges and Universities; Bill Huston, St. Catherine College; Dr. Michael Carter, President, Campbellsville University; Ms. Shajuana Ditto, President, Student Government Association, Campbellsville University; Jonathan Lowe and Greg Rush, LRC Budget Review; Faurest Coogle; LRC Sen-

ate Majority Leadership; Ruth Webb, LRC House Majority Leadership; John Chowning, Carol Sullivan, Joe Walters, Jeff Justice, C. Garrison, and N. Wheat, Campbellsville University; Kevin Brown, Frank Rasche, and Larry Stinson, Kentucky Department of Education; Dr. Richard Crofts and Dan Flanagan, Council on Postsecondary Education; Sharon Burton, Community Voice; Darryl McGaha, Lake Cumberland Area Development District; Mark Johnson, Campbellsville-Taylor County Economic Development Authority, and Ralph Tesseneer.

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

Senator Winters asked for a motion to approve the minutes of the August 11, 2008, meeting. Upon a motion by Representative DeCesare, seconded by Senator McGaha, the minutes were approved by voice vote.

Senator Winters introduced Dr. Michael M. Carter, President, Campbellsville University, who welcomed the members and gave an overview of campus highlights. He introduced Ms. Shajuana Ditto, President, Student Government Association, who described her experiences on campus and explained why other Kentucky students should consider attending Campbellsville University. She thanked the legislative committee members for the General Assembly's actions to contribute state funds into student financial aid to give more students the opportunity for postsecondary education.

Senator Winters gave special recognition to Representative Russ Mobley and asked his wife Carol Mobley and Dr. Carter to join Representative Mobley on stage. Senator Winters read a resolution in his honor and he received a standing ovation from committee members and guests. Representative DeCesare made the motion to accept the resolution, seconded by Representative Webb-Edgington. The motion to accept the resolution was approved by voice vote. Dr. Carter also presented Representative Mobley with a Distinguished Service Award on behalf of Campbellsville University.

Senator Winters gave special recognition to former Representative Frank Rasche, Co-Chair of the Interim Joint Committee on Education, and read a resolution in his honor. Representative Miller made the motion to accept the resolution, seconded by Representative DeCesare. The motion to accept the resolution was approved by voice vote.

Senator Winters introduced Dr. Richard Crofts, Interim President, Kentucky Council on Postsecondary Education (CPE), to review Executive Order 2008-836 relating to the CPE and to give an update on the presidential search process. Dr. Crofts said the committee searching for the new CPE President is working under very strict confidentiality rules in an effort not to lose good candidates as the process continues. The committee will begin reviewing resume[s] in

the next ten days in an effort to identify the most nationally qualified candidates for this very important position. He said the committee hopes to have final interviews and a final selection by the first week in December of 2008. He also said the CPE Web site has a presidential profile of the position to help explain the desired attributes and qualifications to potential candidates.

Dr. Crofts explained the reasoning behind Executive Order 2008-836. He said the CPE applauds the action of administratively moving the agency and directly attaching it to the Governor's office. He said House Bill 1 (2007 SS) identified the President of the CPE in statutory language as the higher education advisor for the Governor and the legislature, which is a huge statutorily enacted responsibility. The CPE and the Governor feel the Governor's office plays a significant role in higher education issues nationally as well as within the Commonwealth and both felt the move would help in the recruitment of the permanent president.

Representative DeCesare said he did not have a problem with the executive order, but noted that the executive order does not state that the CPE reports to the General Assembly.

Representative Rollins asked if this executive order changed the structure of the CPE prior to any changes made by the last administration. Dr. Crofts said the only difference in the structure under the new executive order is the way it references the Secretary of the Cabinet.

Senator Winters said he was disappointed when Governor Fletcher moved the CPE under the Education Cabinet by executive order. He feels the CPE is most effective when it is attached directly to the Governor's office and he applauds the decision.

The Chairman accepted the report on behalf of the committee.

Senator Winters introduced Dr. Phil Rogers, Executive Director, Educational Professional Standards Board, who explained 16 KAR 5:020, Standards for admission to educator preparation. Dr. Rogers said the administrative regulation removes tests that are no longer offered by the testing service and updates testing terminology and aligns regulatory language with current policy. There were no questions for Dr. Rogers from committee members.

The Chairman accepted the administrative regulation on behalf of the committee.

Senator Winters asked Mr. Kevin Brown, General Counsel, and Mr. Larry Stinson, Associate Commissioner, Office of District Support Services, Kentucky Department of Education (KDE), to explain 702 KAR 3:270, Support Educational Excellence in Kentucky (SEEK) funding formula. He said the amendment provides clarification on definitions of the components used in the SEEK funding formula. He said a change was made to

the regulation in the August 2008 Kentucky Board of Education meeting that eliminated duplicative budget language and provisions already covered in other statutes. The remaining changes include adding clarity to some definitions in the funding formula and the addition of students with limited English proficiency being included in the SEEK formula.

The Chairman accepted the regulation on behalf of the committee.

Senator Winters introduced Ms. Jo Carole Ellis, Vice President, Government Relations and Student Services, Kentucky Higher Education Assistance Authority (KHEAA), who explained 11 KAR 3:100, Administrative wage garnishment. Ms. Ellis said the administrative regulation establishes procedures for KHEAA to garnish a defaulted student loan borrower's wages for payment of the borrower's student loan debt as well as the procedures for a borrower to request a hearing on a garnishment and procedures for conducting that hearing. She said this amendment will reflect the current poverty level and consumer expenditures figures published by the federal government.

The Chairman accepted the regulation on behalf of the committee.

Senator Winters introduced Mr. Edward Cunningham, Executive Director and CEO, KHEAA, to give an update on student loan financing in Kentucky. Mr. Cunningham said the Kentucky Higher Education Student Loan Corporation (KHESLC), also known as The Student Loan People, is Kentucky's state-created, non-profit student loan provider. KHESLC has funded approximately 70 percent of the Federal Family Education Loan Program (FFELP) loans in Kentucky, which is equivalent to \$400 to \$500 million for both first-time and continuing college students.

Mr. Cunningham said Congress took action last fall to reduce the federal income earned by lenders from FFELP student loans in an attempt to reign-in the major for-profit lenders. Their actions reduced income for all lenders, including not-for-profits like KHESLC. He said this reduction in revenue, combined with other recent actions taken by the United States Department of Education (USDE), forced KHESLC to discontinue the generous borrower benefits offered to Kentucky teachers, nurses, and public service attorneys as well as other benefits to students.

Mr. Cunningham said beginning in late 2007, the credit markets began to dislocate. The disruption in credit markets led to auction rate security failures in early 2008, and no student lender could sell bonds to raise capital to make new student loans. He noted without this traditional funding source, lenders scrambled to find additional sources. KHESLC was able to use available resources to make loans until May 1, 2008. At that time new loans were suspended until July, affecting mostly students at-

tending summer school.

Mr. Cunningham said on May 7, Congress passed the Ensuring Continued Access to Student Loans Act, which provided availability to funding through the USDE. He said the new liquidity program is temporary and requires significant resources, such as bridge financing, in order to first make student loans and then recycle the funds for future loans. With limited resources, this program was still problematic for KHESLC, and it was uncertain if Kentucky could participate. He noted many lenders could not and have stopped making loans or have gone out of business.

Mr. Cunningham said the Commonwealth of Kentucky provided the critical bridge funding financing by purchasing a \$50 million private placement bond from KHESLC. This innovative solution provides an adequate return on investment for Kentucky and allows KHESLC to continue to serve Kentucky students and families as well as our colleges and universities.

Mr. Cunningham said the USDE liquidity program is temporary and expires in September 2009 and is a one-year fix. KHESLC will continue to seek solutions to the student loan financing problem at the federal level and is asking Congress to either extend the temporary liquidity program or provide a more permanent financing solution for non-profit student lenders. He feels the credit markets will not stabilize at least until 2010 or 2011.

Senator Winters said it was important for the committee members to be familiar with the Association of Independent Kentucky Colleges and Universities (AIKCU) and understand the role and impact of independent institutions in the higher education system. He asked Dr. Carter to speak to the members about the uniqueness of campus life at Campbellsville University.

Dr. Carter used a Power Point presentation for the committee highlighting Campbellsville University. He said the university is operating in its 102nd year and he has served as President for the past ten years. He noted that "US News & World Report" ranked Campbellsville University as being the 22nd best baccalaureate college in the South.

Dr. Carter said Campbellsville University describes itself as a private school with a public purpose. He said a recent economic impact study conducted by an independent firm showed that the college generated \$76 million in economic development in Taylor County alone. He said the university offers 15 master's degree programs, 43 baccalaureate programs, and 15 associate certificate degree programs. The student-to-faculty ratio is 13 to 1 and nearly 70 percent of the professors hold a Ph.D. or higher in their respective fields of study.

Dr. Carter said the tuition at Campbellsville University is in the median national average at \$17,500 a year. He said

financial aid is available in the form of grants, scholarships, loans, and work-study programs. He noted that 90 percent of all students at the university receive some type of financial aid.

The entire Power Point slideshow about Campbellsville University is located on a DVD in the meeting folder in the Legislative Research Commission (LRC) library.

Representative Riner thanked Dr. Carter and his outstanding faculty for the partnership that Campbellsville University has established with Simmons University in Louisville. Dr. Carter said the university is very proud of that partnership and opening pathways to education by removing barriers is something the university believes in.

Representative Higdon said Campbellsville University is very important to this region of the state and not only excels in education, but is instrumental in economic development and quality of life issues. He also said the Hartland Parkway project will be very beneficial to the people of the region and he is glad to have worked with Dr. Chowning on the project.

Representative Greer complimented Ms. Ditto on her student government work. He asked how many high schools the university works with on the Advanced Placement (AP) program to assist high school students in receiving college credit.

Dr. Carter said Campbellsville University is active in the AP and dual enrollment programs and currently participate with 26 schools across the state. He said both programs are designed to help the attendance in postsecondary education. He said the advantage of the dual enrollment program over the AP program is that the courses must be taught by a master's level, Southern Association of Colleges and Schools (SACS) certified faculty member and that benefits those students enrolled in dual enrollment courses. He said both programs give a chance for students to be successful in high school and that success carries over into their college career.

Dr. Winters discussed the Fruit of the Loom layoffs in the Campbellsville area years ago. He said 3,800 jobs were lost to the area when the company was moved offshore. He commended Campbellsville University for helping about 300 of the displaced workers by giving them a college education at no cost. He said the university was instrumental in providing the workers with retraining as well as spiritual and emotional healing.

Senator McGaha said he is concerned with drop-out rates in the K-12 system as well as retention rates in post-secondary education institutions. He asked Dr. Carter if Campbellsville University had any statistics for retention rates at its school or for private institutions as a whole.

Dr. Carter said Campbellsville University tends to have higher retention

and graduation rates. He said there is probably a multitude of factors that contribute to the higher rates, but a low teacher to student ratio helps private schools retain their students by providing more one-on-one instruction. He also said there is an emphasis at the university to teach math, science, and writing. He feels there is a crisis today in trying to teach students writing skills. He said Campbellsville University has implemented the Writing Engagement Learning (WEL) program in an effort to focus on writing because research has shown that students who are good writers have better critical thinking skills, are better problem-solvers, and possess better verbal skills. He also noted that Campbellsville tends to focus on retaining sophomores as research has shown that more sophomores tend to drop-out of college than freshmen. He also said remedial education is a huge problem and students need to come to college better prepared to learn.

Representative DeCesare said that schools are not teaching spelling or the basics of grammar and this is trickling down to freshman enrolling into college. He asked Dr. Carter if Campbellsville University addresses the issue.

Dr. Carter said that writing across the curriculum remains a problem in Kentucky schools. He feels it is not in the best interest of the Commonwealth to graduate students who cannot communicate in a stable manner. He said Campbellsville University's writing program is designed to very intensively make sure that general education courses effectively teach writing.

Senator Winters introduced Dr. Gary Cox, President, AIKCU, to explain the economic and community impact of the independent institutions in the Commonwealth of Kentucky. Dr. Cox gave a Power Point presentation to the committee highlighting the AIKCU achievements. He said there are 20 nonprofit, independent colleges and universities and all are accredited by the SACS. They meet the same rigorous quality standards as Kentucky's public colleges and universities.

Dr. Cox said there are 29,000 students enrolled in AIKCU and 75 percent of the students are Kentucky residents. The AIKCU offers diverse campuses, missions, and student bodies. The campuses are located across the state and offer a number of extended sites, partnerships with businesses and the Kentucky Community and Technical College System (KCTCS), international sites and study abroad, and online courses. The independent institutions are regional and local stewards, and all are committed to the goal of doubling the number of students attending college by 2020.

Dr. Cox said the independent institutions are affordable and accessible for students. The average tuition is one-third lower than the national private college average, and one-fourth lower than

the Southern private college average.

Dr. Cox noted that the independent institutions are a tremendous return on a small state investment. Only about four percent of Kentucky's total post-secondary spending goes to students attending Kentucky's independent colleges and universities, all in the form of student aid. In return, Kentucky's independent institutions produce 22 percent of Kentucky's bachelor degrees; produces more than 5000 total degrees annually; produces high percentages of bachelor's degrees crucial to Kentucky's futures like math and science, education, and nursing; and provides bachelor's degrees in many underserved parts of the state. He also said that substantial increases in state student aid over the last ten years have allowed independent institutions to serve more Kentucky students, but there are still Kentucky students with unmet need.

Dr. Cox said Kentucky students receive \$53 million in student aid. He said that 97 percent of full-time, first-time independent institution students receive financial aid, and the average financial aid awards by source are relative to average tuition and fees. He noted that Kentucky contributes no funding for the 7,000 out-of-state students who attend the independent institutions and those students contribute to the local economies throughout the academic year and many stay in Kentucky after they graduate.

Dr. Cox said the independent institutions produce more than twice as many graduates in health sciences than in history. He noted over 300 nurses were produced in 2006-2007.

Dr. Cox summarized by explaining the return on investment that independent institutions provide for the Commonwealth of Kentucky. Highlights include: 100,000 alumni in Kentucky generate \$4 billion in annual earnings and \$416 million in state tax revenues; campuses provide more than \$1.1 billion in educational facilities; combined total annual economic impact of more than \$1.4 billion and creating more than 12,000 jobs in Kentucky; and being committed partners in Kentucky's effort to double the numbers of bachelor degree holders by 2020.

Senator Winters said the next meeting of the Interim Joint Committee on Education will be on October 13, 2008, at the Gatton Academy of Mathematics and Science at Western Kentucky University in Bowling Green, Kentucky.

Representative Combs said she has spent over 20 years of her life creating and defending the statistics that Dr. Cox referred to in the meeting. She said the independent colleges have accomplished so much and in so many diverse areas in Kentucky. She said a good medical facility can be created without it having to cost multi-millions and produce excellent doctors.

With no further business before the

committee, the meeting adjourned at 3:00 p.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 4th Meeting of the 2008 Interim September 19, 2008

The 4th meeting of the Special Subcommittee on Energy was held on Friday, September 19, 2008, at 10:45 AM, at the Henry Clay Building in Louisville, Kentucky. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Senators Walter Blevins Jr., Tom Buford, Denise Harper Angel, Ernie Harris, and Johnny Ray Turner; Representatives Rocky Adkins, Eddie Ballard, Dwight D. Butler, Tim Couch, Will Coursey, Jim Gooch Jr., Keith Hall, Fred Nesler, Sannie Overly, Tanya Pullin, Tom Riner, and Brent Yonts.

Guests: Rep. Joni Jenkins; Rep. John W. Stacy; James Ramsey, President, University of Louisville; John A. Roush, President, Centre College; Lee Todd, President, University of Kentucky, and Larry D. Shinn, President, Berea College.

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

Minutes of the August 15, 2008 meeting were approved, without objection, by voice vote upon motion made by Representative Jim Gooch and seconded by Representative Rocky Adkins.

James Ramsey, President, University of Louisville explained the background on the Energizing Kentucky Conference. He said that he and three other college Presidents recognized the importance of energy in Kentucky and joined forces to form a partnership between public and private institutions to stimulate the efforts of government, business and education leaders in creating a far-reaching and collaborative statewide energy policy, thus Energizing Kentucky.

He stated that Energizing Kentucky encompasses:

Higher education playing an important role in framing issues, seeking solution, providing basic and applied research, and educating the next generation;

A partnership across the Commonwealth to include business and public policy leaders, as well as those involved in education;

Promoting a public policy discussion focused on energy for the Commonwealth of, and

Conducting conferences to address related challenges in education, business and economic development, and the environment.

Dr. Ramsey stated that the University of Louisville is committed to accountability including financial, academic and

environmental, and that the University's primary focus is on renewable energy sources. He said that the University had developed several courses dealing with energy management and conservation, and that they were working toward offering a degree in Sustainability.

He said that the Speed School is also working in collaboration with the University of Kentucky for the development of alternative ethanol.

Dr. Ramsey stated that the University of Louisville has a program called the Kentucky Pollution Prevention Center that works with school districts to reach a goal of saving five percent on energy costs. The Center also works with private businesses, non-profit businesses and public entities doing energy audits. Through this program and others, the state has been able to save over \$2 million.

Dr. Ramsey said that the University of Louisville has a contract with Siemens Corporation to do an audit of all buildings on campus. As a part of that contract, Siemens has guaranteed to save the University \$33 million.

Sen. Smith asked if certain criteria were used in selecting recommendations from the audit.

Dr. Ramsey stated that they do use criteria.

Lee Todd, President of the University of Kentucky, stated that they had received a \$1.5 million contract from E.ON to look at carbon sequestration, along with letters of intent from E.ON, Duke, AEP, East Kentucky Power and Big Rivers. He said that UK was also working with Alltech, who just received a \$30 million Department of Energy grant. From that grant, he said that UK should receive approximately \$2 million to conduct basic research looking at other components of corn such as the cob and the stalk in trying to convert that to energy.

He said that UK is working with several utility companies across the state to install field demonstrations using algae systems to control carbon dioxide emissions. Algae can absorb twice its weight in carbon dioxide which can be used to make biofuels and feed for animals.

Dr. Todd stated that the University of Kentucky had received approximately \$50 million in grant money to study the development of capacitors to store wind and solar energy; for renewable energy areas such as engineering and agricultural, and hydrogen fuels research.

In other areas, he said that twenty-one dormitories had been outfitted with meters so each dormitory could see their energy consumption creating competition between the dormitories. As a note, he said that during move in day UK recycles 25,000 pounds of cardboard.

Dr. Todd praised a group of engineering students who participated in and placed 11th in the 2008 North American Solar Car Challenge. He said that UK is also involved in the Solar Decathlon world competition which demonstrates

running every day appliances on pure solar energy.

He also stated that UK had just received a \$1.4 million federal fund announcement to build a mini-refinery using Fischer Tropsch technology and looking at sequestration issues.

Larry D. Shinn, President, Berea College, stated that even though Berea College is a small college of 1,500 students, it has been able to become an incubator for innovation. He said that in 1994, Berea College had no environmental studies program and no renovation standards that included environmental considerations.

In 2008, Berea College turned on a new Danish style low temperature heating and cooling plant. He also said that the new plant did not cost a penny more than what replacement costs would have been for the old plant. The old gas and coal-fired plant had 4-1/2 miles of steam lines which were replaced with direct burial pipe with 4 inches of insulation around it. That change alone saved the college 30% of transmission loss. In a heating budget of \$2.4 million, the college saved \$1.2 million.

Berea has twenty-one renovated buildings all designed to LEED silver specifications.

Rep. Smith asked Mr. Shinn to explain LEED.

Mr. Shinn stated that LEED stands for Leadership in Energy and Environmental Design and is a sustainable building certification program of the U.S. Green Building Council.

Mr. Shinn stated that every building renovated strives to achieve 45% reduction in energy use and 50% in water use. Initially they projected a 10 to 12 year payback, but now they project a payback period between 6 and 7 years.

He said that Berea College consistently tries to find ways to reduce energy costs and to reduce their energy and ecological footprint. Conservation and energy efficiency have become the key factors in Berea's energy policy.

John A. Roush, President, Centre College, said that Centre has 1,200 students. He said that outstanding leadership from students and faculty has provided direction in issues of sustainability. He said that within the last 5 years, Centre has put approximately \$80 million into new construction, all of which is either LEED certified or LEED qualified. He said eight years ago, Centre put an energy management system in place, and it paid for itself in 4 years.

Mr. Roush stated that the four college Presidents made a decision that it was time to lock arms and provide leadership in the energy policy area.

Sen. Smith asked if any of the colleges could see the development of new degrees in conservation engineering.

Mr. Shinn stated that Berea College has a sustainability minor presently which they hope to turn into a major.

Mr. Roush said that one-third of

the students at Centre major in science. They have 250 graduates each year and 100 of them are going into scientific fields.

Mr. Ramsey stated U of L does not have a major, but they are working toward that end.

Dr. Todd said that students can get certifications, but UK has no degree program currently.

Rep. Pullin stated that Kentucky has been at the forefront of energy solutions for the last three or four years. She pointed out that the Western Governors Association invited Kentucky legislators to their meeting to speak on energy issues. Kentucky is leading the charge.

Rep. Hall stated that he was very impressed with what Berea College had done, along with the other universities. It is important to co-exist efficiently, economically and environmentally but at the same time utilize utility energy sources.

Rep. Yonts stated that all the research into alternative energy is a matter of national security. We must become independent and we must move toward degrees in engineering, science, etc. in order to be competitive and sustainable as a country.

Rep. Atkins stated that the collaboration between the universities and colleges is important to energy independence. He said that as research is expanded and developed, Kentucky needs to be the place for new energy technologies. Kentucky will have to create an economy that will produce jobs for our engineers, chemists, and a highly trained work force.

Meeting adjourned at approximately 12:00 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Families and Children Minutes of the 2nd Meeting of the 2008 Interim September 5, 2008

The 2nd meeting of the Subcommittee on Families and Children of the Interim Joint Committee on Health and Welfare was held on Friday, September 5, 2008, at 10:00 a.m., in Salon D of Marriott's Griffin Gate Resort in Lexington, Kentucky. Senator Katie Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative Tom Burch, Co-Chair; Senators Charlie Borders, Perry B. Clark, Alice Forgry Kerr, Joey Pendleton, and Johnny Ray Turner; Representatives James R. Comer Jr., and Joni L. Jenkins.

Guests: Kathryn Vogelsarg for the 14th Circuit Family Court; Rice Leach for the Lexington Health Department; Susan Pollach for Kentucky Injury Prevention; Laura Ebert for Community Partners Protecting Children, Fayette County; Phyllis Millspaugh for the Cabinet for Health and

Family Services, Department for Community Based Services; Marylee Underwood for the Kentucky Association of Sexual Assault Examiners; Jill Seyfred for Prevent Child Abuse Kentucky; Joe Farless for Family Preservation Pennryle Allied Community Services; Janice Johnston for the Department for Mental Health, Mental Retardations Services; Jim Kimbrough for AARP KY; Mike Grimes for the Cabinet for Health and Family Services, Department for Community Based Services; and David Cozant for the Lexington-Fayette Urban League.

LRC Staff: Ben Payne, Jonathan Scott, and Cindy Smith.

The minutes of the August 20, 2008 meeting were approved without objection.

The first item on the agenda was an update on the Child Protective Services Complaint Report (07 HJR 137), by Sandra Brock, Executive Director, Office of the Ombudsman, Cabinet for Health and Family Services; and Patricia R. Wilson, Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Services. Ms. Brock presented the findings of the report to the subcommittee. She said that the Ombudsman office is required to investigate any county with 10 or more justified complaints within a six month period. The counties with 10 or more justified complaints from the last report were Jefferson and Madison counties. Data was also presented for the time period January, 2008 through June, 2008. Ms. Brock stressed that the Office of the Ombudsman reports directly to the Secretary of the Cabinet and that this promotes independent investigations. Ms. Brock also gave an overview of the structure of the Ombudsman's Office detailing the divisions of Performance Enhancement, Institutional Review, and Complaint Review.

Patricia Wilson, the Commissioner of DCBS discussed the ways the cabinet responds to the Child Protective Services Complaint Report. Commissioner Wilson described the process that DCBS follows after the report is received from the Ombudsman's Office. Commissioner Wilson also discussed a main issue that has arisen from the reports, the monthly home visits by DCBS to families. She stressed that DCBS is working to ensure that regular contact is maintained with the families and the cabinet; and not just with the child and the cabinet.

Representative Burch asked how much independence does the Ombudsman's Office have. Ms. Brock said that the Ombudsman's Office reports directly to the Secretary of the Cabinet and that makes its job easier. The Ombudsman's Office has been given the ability to make recommendations and then even more can be done from that point.

Representative Burch asked if the Ombudsman Office has the power to override, or just the power to make recommendations. Ms. Brock said the of-

fice has a lot of power because she works directly for the Secretary and Ms. Brock can speak on her behalf and take issues directly to Secretary Miller.

Representative Jenkins asked how the Cabinet is doing in terms of field positions for Child Protective Services. Commissioner Wilson said the Cabinet is moving forward and filling the positions more rapidly. The number in the field changes often. Currently there are 1,500 front-line service workers and they are looking at staffing patterns and caseloads in each county.

Representative Jenkins asked if there had been many retirements in the Department for Community Based Services. Commissioner Wilson said there had been a significant number, with many being from management and supervisory ranks.

Representative Jenkins asked if the Department for Community Based Services has lost a lot of expertise with the retirements. Commissioner Wilson said expertise has been lost, but the Cabinet has been expecting and preparing for that. Also, the retirements are providing others the ability to move up in the ranks.

Representative Burch asked how many social workers have been lost this year. Commissioner Wilson said she did not have that information with her, but she could get that information to the committee.

Representative Burch asked what services are offered to families. Commissioner Wilson said there is an array of services that are offered. When an investigation is done, there is a check for mental health and substance abuse issues and a check for basic food, clothing and shelter needs. The family is looked at as a whole to see what is needed so better parenting can be taught to the family.

The second item on the agenda was an update on the Child Fatality Review Report by Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services. Dr. Shepherd discussed the origins, purpose, and function of the Review System. Dr. Shepherd also discussed the local and state Child Fatality Review (CFR) Teams and how they operate to help coroners' investigations for persons younger than 18 years-of-age. It was reported that 67 Kentucky counties have CFR Teams, 45 counties have no CFR Teams, and eight counties are developing CFR Teams. Dr. Shepard highlighted and discussed the fact that there is a two-year lag time between the data and when it is reported. Some of the leading causes for the deaths of children in Kentucky were reported to be unintentional injuries, congenital anomalies, SIDS, diseases, and suicide. Dr. Shepard reported that specifically, transportation deaths are the leading cause of injury deaths to children in Kentucky, with half

of these deaths, the children were not in child safety restraints. The second leading cause of injury deaths of children in Kentucky is caused by child abuse. It was reported that Kentucky is above the national average in childhood injury deaths. Dr. Shepard said that the cabinet strives to implement the findings from report data into other programs such as HANDS, Healthy Start, Safe Routes to Schools, and others.

Representative Burch asked if the Graduated Driver's License has reduced teen deaths. Dr. Shepherd said it is too early to tell, but she expects to see those types of results in the 2007-2008 data when it is released.

Representative Burch asked if the importance of booster seats is being stressed. Dr. Shepherd said it is being stressed across Kentucky and that all health departments are stressing that as well.

The last item on the agenda was an update on the First Steps Program by Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services. Dr. Shepherd said the program serves children from birth to three years-of-age. Any child with developmental disabilities can be referred into the program by anyone; a family member, a child care provider, or anyone else who has contact with the child. First Steps operates by adhering to three guiding principles; Children will get the services they need, Families will get the support services they need, and First Steps will stay within budget. Dr. Shepard described to the members the process of finding children who need the program and the referral process for services. Dr. Shepard also detailed improvements that have been occurring within the program. Three improvements were highlighted; Improvements for Children and Families, Improvements for Providers, and Improvements for Efficiency.

Representative Burch wanted to impress on people that First Steps is a pay-or of last resort and the families choose whether or not their insurance is billed.

The meeting was adjourned at 11:22 a.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Minutes of the 3rd Meeting of the 2008 Interim September 5, 2008

The 3rd meeting of the Interim Joint Committee on Health and Welfare was held on Friday, September 5, 2008, at 1:00 PM, at the Marriott's Griffin Gate Resort, 1800 Newtown Pike, Lexington, Kentucky. Senator Julie Denton, Co-Chair, called the meeting to order 1:05 PM, and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Charlie Borders, Per-

ry B. Clark, Denise Harper Angel, Alice Forgy Kerr, Joey Pendleton, Dick Roeding, and Johnny Ray Turner; Representatives James R. Comer Jr., Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Darryl T. Owens, Ruth Ann Palumbo, Kathy W. Stein, and Addia Wuchner.

Guests: Mike Robinson, Jill Seyfried, Rashmi Adi-Brown, Prevent Child Abuse Kentucky; Shane Salter, CEO, CASA DC; Janie Miller, Secretary, Steve Nunn, Deputy Secretary, Betsy Dunnigan, Acting Deputy Commissioner of the Department for Mental Health, Developmental Disabilities, and Addiction Services, and DaVida Gyr, Director, Division of Facilities Management, Office of Administrative and Technology Services, Cabinet for Health and Family Services; Jim Abbott, Commissioner of Facilities, Finance and Administration Cabinet; Susan G. Zepeda, Ph.D., Executive Director, Foundation for a Healthy Kentucky; Eric Rademacher, Ph.D., Interim Co-Director, Institute for Policy Research, University of Cincinnati; Mary Goodman and Christi Morgan, CPPC; Bill Cooper and Shirley Eldridge, Department for Aging and Independent Living, Cabinet for Health and Family Services; Charlene Greer, Owensboro Medical Health System; June Bell, St. Joseph's Peace Mission; Michelle Sanborn, Children's Alliance; Kirk Patton Woosley, Kelly Skerchock, and Stephanie Brammer-Barnes, Elizabeth Caywood, Cabinet for Health and Family Services; Jennifer Larson and Barb Bright, Boyd County Health Department; Kathy Recktenwald, Pediatric Forensic Medicine, University of Louisville; Melanie Tyner, Dr. Susan Pollack and Jessica Fletcher, University of Kentucky; Marelee Underwood, Kentucky Association of Sexual Assault Programs; Joanie Moore, Denise Weider, Debbie Dile, Katie Jesse, Joann Lianekhammy, Audrey Brock, Chris Cordell, and LeeAnn Williams, Department for Community Based Services, Cabinet for Health and Family Services; Lilly Jo Cockrell, Parent Consultant, Green River Area Development District; Anne Joseph, Covering Kentucky Kids and Families; Pam Jenkins, Baptist Healthcare; Mike Weinrauch, Becky Cecil, Gincy Fowler, Diane Glenn, and Gayle F. Bourne, Commission for Children with Special Health Care Needs; Eric T. Clark, Kentucky Association for Health Care Facilities; Vickie Arrowood; Peggy Williams, Majority Floor Leader's Office; Marsha Hockensmith, Protection and Advocacy; Nathan Goldman, Board of Nursing; Zina Harris and Eder Crenshaw, and Deborah L. Arthur Stone, Jefferson Community Network for Child Safety; Quinetella Weathers; and Sheilia Gowdy.

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

A motion to approve the minutes of the June 18, 2008 and August 20, 2008 meetings was made by Senator Roeding,

seconded by Senator Harper Angel, and approved by voice vote.

The following administrative regulations referred to the committee for consideration: 201 KAR 20:070 & E – establishes the requirements for the licensure of nurses by examination prescribed by the Kentucky Board of Nursing; 902 KAR 55:110 – establishes criteria for reporting prescription data, providing reports to authorized persons, and a waiver for a dispenser who does not have an automated recordkeeping system; 908 KAR 3:050 – establishes the patient cost per day for board, maintenance and treatment at facilities operated by the cabinet; 910 KAR 1:160 – establishes the adult day and Alzheimer's respite program; 921 KAR 3:030 – establishes the application and the voter registration processes used by the cabinet in the administration of the Food Stamp Program; 922 KAR 1:310 – establishes basic standards for child-placing agencies. After Stephanie Brammer-Barnes, Cabinet for Health and Family Services, explained the agency amendment, a motion to adopt the amendment to 902 KAR 55:110 was made by Senator Roeding, seconded by Representative Owens, and adopted by voice vote. A motion to approve 902 KAR 55:110 as amended was made by Senator Roeding, seconded by Representative Owens, and adopted by voice vote. After Elizabeth Caywood, Cabinet for Health and Family Services, explained the agency amendment, a motion to adopt the amendment to 922 KAR 1:310 was made by Senator Roeding, seconded by Representative Owens, and adopted by voice vote. A motion to approve 922 KAR 1:130 as amended was made by Senator Roeding, seconded by Representative Owens, and adopted by voice vote. A motion to approve 201 KAR 20:070 & E, 908 KAR 3:050, 910 KAR 1:160, and 921 KAR 3:030 was made by Senator Roeding, seconded by Representative Owens, and approved by voice vote.

The Community Mental Health Services Block Grant, Title V Maternal and Child Health Block Grant, Substance Abuse Prevention and Treatment Block Grant, and the Temporary Assistance for Needy Families (TANF) Block Grant were approved.

Representative Burch, Co-Chair, Families and Children Subcommittee, reported that the subcommittee met that morning and heard a presentation by Sandra Brock, the Executive Director of the CHFS Office of the Ombudsman, concerning the findings of the Child Protective Services Complaint Report that was mandated in HJR 137 from the 2007 Regular Session of the General. Patricia Wilson, Commissioner of Department for Community Based Services, discussed the cabinet's response to the Child Protective Services Complaint Report.

Dr. Ruth Ann Shepherd, Division Director for Maternal and Child Health for the Department for Public Health, dis-

cussed the origins, purpose, and function of the Child Fatality Review System. The subcommittee received an update of the First Steps program. Dr. Ruth Ann Shepherd also presented an update of the First Steps program.

Representative Marzian, Co-Chair, Health Issues Subcommittee, reported that the subcommittee met that morning was given an update on the activities of the Department for Public Health by Dr. Steve Davis, Deputy Commissioner. Dr. Davis also discussed the results of the 2007 Kentucky Behavioral Risk Factor Surveillance System Survey which is a phone call survey conducted in conjunction with the Center for Disease Control and Prevention. Betsy Dunnigan, Acting Commissioner, Department for Mental Health, Developmental Disabilities, and Addiction Services, gave a presentation on the new public awareness campaign on suicide prevention called "Let's Talk".

Shane Salter, CEO, CASA DC, testified about his and his brother's experiences through the foster care system. He testified that he and his brother were in several foster homes, and eventually had up to be split up and placed in separate home. This caused him and his brother to become rebellious, even running away at times. His brother felt that he had abandoned him and that he was alone in the world. Mr. Salter said that he finally realized he wanted better for himself and started to turn his life around, but his brother did not. Mr. Salter eventually founded CASA for Children of DC where he spearheads a grass-roots movement comprised of nearly 150 diverse community volunteers advocating for children that have been abused or neglected. The volunteers enhance the decision making ability of judges regarding siblings, youth placed in the child welfare and juvenile justice systems, families engaged in residential drug treatment, youth preparing for adulthood, and others confronting challenges with sexual identity.

Senator Denton asked about his brother. Mr. Salter stated that because he did not feel like he had a stable home life, he is very angry. It has caused him to not be able to establish a home life of his own.

Senator Clark asked if there is any data that tracks children through the foster care system. Mr. Salter said there has been a study conducted that shows an overwhelming number of children lack continuity, and approximately 70 percent of the children leave the system with post traumatic stress syndrome. Senator Clark asked about the percentage of children who end up in jails. Mr. Salter said that 70 percent of the homeless population has been in foster care, and 60 percent in the penal system have been touched by foster care. Children who do not have a support system end up in trouble. Unfortunately, most communities do not know how to handle the problems and help turn things around. Senator Clark stated that it would be

better to put assets on the front end instead of the penal system. Mr. Salter said that the child welfare system is territorial or ego-driven. The needs of career professionals are put ahead of children. Social workers and/or nurses cannot do it alone, everyone has to be involved.

Representative Wuchner asked if resources for CASA differ from state to state. Mr. Salter said that the national CASA association would be a good resource to obtain this information.

Representative Meeks asked looking at Kentucky, what is helping or hurting. Mr. Salter stated that even having a Department for Community Based Services and Commission on Children with Special Health Care Needs is incredible. Nationally, states need to ensure stability of placement. Assessments should be conducted to make sure children receive the correct placements. Families need to be helped with problems before it gets so bad that a child has to be placed in foster care. There needs to be sibling group homes to keep siblings together whenever possible. The most important thing is that we treat foster children like we would treat our own children. Representative Meeks stated that efforts have been addressed in past administrations, but have not borne fruit yet. He asked for a status report of these efforts.

Representative Burch asked Mr. Salter what helped him overcome the odds. Mr. Salter stated that he encountered the right people at the right time. He confronted the reality of what happens in foster care, and then realized he wanted better for himself.

Senator Denton asked what needs to be done to assure stability in placements. Mr. Salter stated that we need to match children with the strengths of families, ensure young people's outcomes by screening providers, meet the mental needs of children, and make sure families have needed resources.

Senator Borders stated that while one goal is to place children as soon as possible, we need to determine if early adoption is the better alternative. Mr. Salter said that there needs to be support, whether financial or whatever, for people who want to adopt American children. Senator Borders asked if faith-based institutions could help spread the word about the need of children to be adopted. Mr. Salter stated that, again, the strengths of families need to be matched with each child.

Representative Owens asked about the difference between kinship care and foster care. He also asked if the agency was aware of children having post traumatic stress syndrome because they were separated from siblings. Mr. Salter said that kinship care builds on strengths of family and helps the child feel like they were not totally abandoned. Technology could be used to help find family members who would be willing to take the children into their homes who would otherwise not know about the child's

needs. Mr. Salter stated that states need to be very careful making cuts in children's programs. He also stated that the government does not have the same accountability for outcomes as parents. High standards need to be met whenever it is necessary to separate children.

Representative Stein said that no new taxes pledges are hurting Kentucky and asked if he has seen this in other states. Mr. Salter said that he has seen it in other states. He said that most citizens do not make the connection of taxes with outcomes for children, and do not realize that raising taxes would result in a better quality of life for the children.

Senator Roeding stated that the adoption laws in America need to be revamped to make it easier for people who want to adopt. Mr. Salter stated that bureaucracy needs to be removed from the system to make changes.

Senator Borders stated that Kentucky has limited revenue, but funds need to be prioritized better.

An update on the Glasgow Nursing Home was given by Betsy Dunnigan, Acting Deputy Commissioner, Department for Mental Health, Developmental Disabilities, and Addiction Services, DaVida Gyr, Director, Division of Facilities Management, Office of Administrative and Technology Services, Cabinet for Health and Family Services, and Jim Abbott, Commissioner of Facilities, Finance and Administration Cabinet. Ms. Dunnigan stated that the 2008-2010 biennial budget included language that the cabinet shall develop and submit a plan by December 1, 2008, to the Legislative Research Commission, for referral to the appropriate committee, to replace Glasgow State Nursing Facility. If the plan called for the facility to be located elsewhere, before any action to relocate the associated beds and patients could occur, the justification of cost and economic effects on the Glasgow community shall be addressed. The nursing facility is licensed for 100 beds and designated as an Institution for Mental Disease (IMD). An IMD is a hospital, nursing facility, or other institution of more than 16 beds, primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care, and related services.

Currently there are 78 residents at the Glasgow nursing facility. Due to building issues, the cabinet has compressed the number of admissions. The facility is recognized as having expertise in the management of Huntington's disease by the Huntington's Disease Society of America. This facility is the only long-term care facility in the state that has received this recognition. The patients at Glasgow Nursing Facility cannot be placed in a regular nursing home environment due to extensive psychiatric medical and behavioral daily needs of the patients. The Finance and Administration Cabinet determined that extensive work

to the facility would be required to keep the current facility functioning efficiently, while ensuring applicable building codes are met. The cabinet has spent approximately \$1.1 million since the structural discovery to create a temporary habitable and safe place for residents. Permanent repairs to the existing structure would cost \$2,250,000, electric upgrades, \$1.3 million, and \$8,820,000 for HVAC and lighting upgrades. The facility has additional code deficiencies that eventually need to be addressed that would cost several million dollars. The cost to replace the existing structure would be \$20,000,000. While the cabinet gave the new construction project prioritization, unfortunately, the project was not approved in the 2008-2010 biennial budget. The cabinet has been advised that the existing structure should be routinely monitored by a structural engineer to verify the continued structural integrity until a new structure can be built and patients transferred.

Representative Comer stated that the facility provides excellent care, and if moved from Glasgow, will have a detrimental impact on the community. He asked who determined the estimated costs of the upgrades to the structure. Mr. Abbott stated consultants were hired to determine the costs. In 25 years, more funds would be needed for upgrades on the facility, but a new facility would not require more funds for 50 years. Representative Comer asked if there is a demand for more beds, and Ms. Dunnigan stated there is a waiting list.

Representative Palumbo asked the current number Huntington's patients and how many could be at the facility at any given time. Ms. Dunnigan stated that currently there are three patients, but there is no set limit because priority is given to these patients. Representative Palumbo stated that Huntington's is not a mental illness, but Ms. Dunnigan explained that it goes along with the disease.

Senator Borders asked how many of the 100 beds were filled and how many of those patients were from Glasgow. Ms. Dunnigan stated there are currently 78 patients and the majority lived with 50 miles before being admitted to the facility.

Representative Burch asked if a new facility would have more beds, and Ms. Dunnigan stated it would have 100 beds like the current facility. He asked how prevalent Huntington's was statewide, and Ms. Dunnigan said she would have to get back to the committee with that information.

Senator Denton asked about the average of patients over the last five years. Ms. Dunnigan stated there was an average of 76 patients over the past four years. Senator Denton asked if there was a need for all 100 beds, and Ms. Dunnigan stated yes.

Susan G. Zepeda, Ph.D., Executive Director, Foundation for a Healthy Ken-

tucky; Eric Rademacher, Ph.D., Interim Co-Director, Institute for Policy Research, University of Cincinnati, gave an overview of the 2008 Kentucky Health Issues Poll. Dr. Zepeda stated that the survey was conducted between January 16, 2008 to February 11, 2008 by the University of Cincinnati Institute for Policy Research and targeted 1,632 adults over 18 years of age within five regions of Kentucky. She gave the following statistics from the survey: 1) 20 percent of adults 18-64 years are uninsured; 2) 28 percent have been without insurance at sometime in the past year; 3) 60 percent are insured through an employer ; 4) 20 percent have public insurance; 5) 97-98 percent believe it is important that Medicaid covers children in low-income families, disabled adults who cannot work, elderly who cannot afford nursing homes, and low-income working parents who cannot get employer-sponsored insurance; 5) 50 percent want an increase in cigarette taxes, 16 percent cut other programs, 11% said increase the state sales tax, 10% increase state income tax in order to cover everyone eligible for Medicaid; 6) 80 percent agree that quality, affordable care is a fundamental human right; 7) 93 percent said want the legislature should work on reducing the number of Kentucky children without health insurance. She said the 2008 Kentucky Health Issues Poll results can be found at www.healthyky.org.

There being no further business, the meeting was adjourned at 2:59 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Minutes of the 4th Meeting of the 2008 Interim October 15, 2008

The 4th meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 15, 2008, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:10 PM, and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Charlie Borders, Tom Buford, Denise Harper Angel, Alice Forgy Kerr, Joey Pendleton, Dick Roeding, Dan Seum, Katie Stine, and Johnny Ray Turner; Representatives Scott W. Brinkman, James R. Comer Jr., Robert R. Damron, Joni L. Jenkins, Mary Lou Marzian, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, and Addia Wuchner.

Guests: Alex Blevins, Executive Director, Kentucky CASA; Judge Elise Givhan Spainhour, Bullitt County Family Court; Judge Sheila Nunley Farris, Henderson County Family Court; Bart Baldwin, President, Children's Alliance; Pat Wilson, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Jill Seyfred, Prevent Child Abuse Kentucky; Christine and Lara Gelding; Tina Radford, Leslie

Beam; Rebecca Cecil, Executive Director, Commission for Children with Special Health Care Needs; Peggy Howard, Surgical Technology Director, KCTCS, Owensboro; Dr. Herman Kaebnick, M.D., Vascular Surgeon; Sandra Smith, RN, BSN, Surgery Educator; Kim and Brian Nelson; Bill Doll, Kentucky Medical Association; Guy Delius, Department for Public Health, Cabinet for Health and Family Services; Kim Dees and Sarah Nicholson, Kentucky Hospital Association; Duncan Pitchford, CASA of Kentucky; Paula Pabon, Kentucky Board of Nursing; Thomas H. Pinkstaff, M.D. and Susan Noel, ARNP, University of Kentucky; Don Putnam, PROOF – Oakwood; Troy F. Bell, Administrative Office of the Courts; Eric T. Clark, Kentucky Association of Health Care Facilities; Alice Martin, CASA – Franklin County; and Shane O'Donley, Office of Certificate of Need, Cabinet for Health and Family Services.

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

A motion to approve the minutes of the September 5, 2008 meeting was made by Senator Pendleton, seconded by Representative Watkins, and approved by voice vote.

The following administrative regulations were referred to the committee for consideration: 201 KAR 20:410 – establishes which records may be expunged by the Kentucky Board of Nursing and the procedure for expungement; 201 KAR 23:015 – establishes the requirements for the granting of temporary permission to engage in the practice of social work; 201 KAR 23:070- establishes the educational institutions approved by the board, the definitions relating to supervision, the content of a Contract for Clinical Social Work Supervision and the requirements for experience under supervision; 201 KAR 35:020 – establishes an initial certification fee and renewal fee by the Board of Certification of Alcohol and Drug Counselors; 201 KAR 35:040 – establishes the requirements for continuing education for certified alcohol and drug counselors and prescribes methods and standards for the accreditation of continuing education courses; 201 KAR 35:050 – identifies the areas of study that will satisfy the requirement for certification as an alcohol and drug counselor; 201 KAR 35:060 – establishes procedures for the filing, evaluation, and disposition of administrative complaints by the Board of Certification of Alcohol and Drug Counselors; 201 KAR 35:070 – establishes the standards for the accumulation of the required supervised work experience with a certified alcohol and drug counselor who has at least two years of postcertification experience; 900 KAR 6:050 & E – establishes the requirements necessary for the orderly administration of the Certificate of Need Program; 902 KAR 45:150 – establishes uniform standards for schools and includes sanitary standards for op-

eration, inspections, and enforcement of procedures necessary to insure a safe and sanitary environment; and 922 KAR 1:360 & E – establishes (a) five levels of care based upon the needs of a child for whom the cabinet has legal responsibility; (b) a payment rate for each level; (c) gatekeeper responsibilities; (d) provider requirements; (e) procedures for classification at the appropriate level of care; and (f) procedures for determination of components of the model program cost analysis.

Senator Stine, Co-Chair, Families and Children Subcommittee, reported the subcommittee met that morning and heard a presentation concerning the condition of Apraxia. The subcommittee listened to a presentation from the Kentucky Autism Training Center by Rebecca Grau and the STAR Autism Treatment Services by Dr. Joseph Hersh. Rebecca Cecil, Executive Director, gave an update on the Commission for Children with Special Health Care Needs. A presentation on Preventing Childhood Infectious Diseases was given by 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.

Representative Marzian, Co-Chair, Health Issues Subcommittee, reported the subcommittee met that morning and heard a presentation on the behavioral health and criminal justice grant program by Donna Hillman, Director, Division of Mental Health and Substance Abuse, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services, Rita Ruggles, Project Director, Division of Mental Health and Substance Abuse, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services, and the Honorable Karen Thomas, Chief District Judge, Campbell County. The subcommittee also had an update on the newly established Office of Minority Health within the Cabinet for Health and Family Services from Dr. Ruth Ann Shepherd, Division Director, and Joy Hoskins, Assistant Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services.

A gave an update on the missions and goals of Kentucky CASA (Court Appointed Special Advocate) was given by Alex Blevins, Executive Director, CASA of Kentucky, Judge Elise Givhan Spainhour, Bullitt County Family Court, an Judge Sheila Nunley Farris, Henderson County Family Court. Judge Farris explained that there is a difference between a CASA and a Guardian Ad Litem (GAL). A judge appoints a CASA for the child, who then becomes the advocate or voice of that child for the duration of the case, no matter how long it takes. A GAL gets the cases back on the docket when necessary. Judge Spainhour stated that a

CASA helps her not to offend the child and gives her reports about a child. She said that there is a waiting list in need of a CASA volunteer. The CASA volunteers go through a vigorous screening process and also work with social workers who manage a child's case. The CASA is there for one reason and one reason only, and that is to stand up for the child. The CASA only helps one child at a time and is bound by confidentiality rules. Reunification of the family is the most important thing for the child unless it would be detrimental for the child. A CASA makes sure a case stays on track, and they report progress to the judge.

Mr. Blevins said that the mission of the Kentucky CASA is to present a statewide voice for abused and neglected children and enhance the growth and support of existing CASA programs throughout the state. CASA volunteers serve as a powerful voice for abused and neglected children, one child at a time. There are a total of 21 CASA programs in the Commonwealth. Approximately 7,500 children are in out-of-home care, and every day judges decide the futures of the children in a system that is often too understaffed and overburdened to focus adequately on the needs of each child. Without help, these children are at high risk for homelessness, unemployment, incarceration, and drug and alcohol abuse as adults. CASA volunteers visit the child regularly and provide a consistent presence in his or her life, fully research the child's history and present situation, file court reports and appear before the judge to advocate for the best interests of a child, and work with others to make sure the child's needs are being met.

Cases with a CASA volunteer will receive: 1) in-depth review and monitoring of the child's educational needs; 2) in-depth review and monitoring of the child's health needs; 3) individual advocacy by one volunteer per case; 4) advocacy for a safe, permanent home for each child. Volunteers are required to finish their cases and seldom does a child switch a CASA. Children with a CASA volunteer, when compared to children in like circumstances without a CASA volunteer, will spend significantly less time in foster care, have fewer disruptions in placement, and have fewer numbers of placement. Currently only Kentucky and West Virginia receive no state dollars for CASA.

Representative Owens asked if the children who have a CASA also has a social worker. Judge Spainhour stated that because social workers have a large caseload, they utilize the help of a CASA. While a social worker may carry 20-25 cases, a CASA takes care of only one child at a time. She stated that not all of the 120 counties have CASA. Judge Farris said that if there are no prior offenses at home, a judge may contact a CASA while the social worker tries to take care of the child's physical needs. A CASA

will take care of the child's legal needs. Mr. Pitchford stated that CASA works as a team member with the Department for Community Based Services.

Senator Denton asked if a CASA would be interested in becoming supervised visitation supervisors. Mr. Blevins stated that CASA standards does not allow a CASA to be the only person at a supervised visit. Senator Denton stated that CASA volunteers would be good supervisors.

Representative Wuchner asked about CASA funding. Mr. Blevins stated that all CASA programs are funded by private non-profit funds. He stated that approximately \$3.25 million was raised by grants, fundraisers, and community partners. He said that \$1 million was requested from the General Assembly, but the request did not make it into the final budget. It takes \$55,000 per year for one CASA program. Title IV-E provides funds for reimbursement of training of CASAs, but Kentucky is ineligible. Representative Wuchner asked about the needs in Kentucky. Mr. Blevins stated that there are approximately 2,116 CASA cases in 42 counties. The CASA programs need approximately \$1.5 million in addition to funds raised by local programs.

A presentation on the challenges of foster care in Kentucky was given by Pat Wilson, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, Bart Baldwin, President, Children's Alliance, and Jill Seyfred, Prevent Child Abuse Kentucky. Ms. Seyfred and Mr. Baldwin stated that Prevent Child Abuse Kentucky, the DCBS, and the Children's Alliance all stand united about the challenges of foster care and seeking solutions. Commissioner Wilson stated that foster care is meant to be a temporary solution. Safety of the child is the main priority, and it is important for the child to have a permanent placement as soon as possible. The department tries to place the child with a family member if at all possible. Approximately 74% of the children are returned to the family. The longer a child stays in foster care, the more chances they will be in placed in several foster homes. Commissioner Wilson stated that approximately 70% of the children do not move in the first month of placement. Approximately 45% of children will stay in the same foster care home within a 12-month period, and 20% with a 24-month period.

Commissioner Wilson stated that there has been an increase in the number of babies coming into the foster care system. The department has been awarded a 5-year, \$2 million grant to work on diligent recruitment of foster parents. There are approximately 500 children in foster care that are aggressive, low functioning, have sexual issues and/or have substance abuse who are difficult to handle. She stated that placing children in foster care is a statewide, not just in a few geographical areas. The department

tries to do what is in the best interest of the child, so approximately 90% of children with sibling(s) are maintained in the same foster home whenever possible. It is very important to keep children together. There are approximately 7,100 children in the foster care system, but it does not have to hinder children from becoming the best person they can be.

Representative Owens asked about the difference between out-of-home care and kinship care. Commissioner Wilson stated that there are approximately 9,000 children in kinship care. The children in kinship care are not in the custody of the cabinet and guardians are paid from TANF funds. The difference in out-of-home care and kinship care payments is several hundred dollars a month. Representative Owens stated that foster care has different restrictions than kinship care, therefore, kinship care would seem to be a better option if possible.

Representative Watkins asked about the age children leave foster care. Commissioner Wilson stated age 18 unless a child wants an extension or for other circumstances such as school. Representative Watkins asked how DCBS handles low functioning children who age out of foster care. Commissioner Wilson stated they remain with DCBS in a different capacity.

A presentation on Apraxia was given by Christine Gelding, parent of Lara, a child with Apraxia, and Leslie Bean and Tin Radford, family members of Lara. Ms. Beam stated that Apraxia is a developmental disorder where a child cannot pronounce words. She was additional speech therapy available. Ms. Radford stated these children belong in the least restrictive environment. She said that some children with speech and communication problems could be diagnosed with Apraxia. Each child should have their needs met. Ms. Gelding stated that allot of parents do not have family support systems. She stated that her daughter needs intense therapy that is not available at this time.

An update on the Commission for Children with Special Health Care Needs (CCSHCN) was given by Rebecca Cecil, Executive Director. Ms. Cecil stated that since 1924, the commission has provided care for children with physical disabilities. There are thirteen regional offices statewide where staff help get care their children's needs. A child can receive services if the child is a resident of Kentucky, younger than 21, has a medical condition that usually responds to treatment and is covered by the program, and meets financial guidelines. Patients remain eligible until they reach the age of 21, have gained maximum benefit from treatment, choose to obtain services in another setting, or they no longer comply with a treatment plan or program guidelines. In the Medically Fragile Foster Care Program, one of the licensed registered nurses serve as consultants to foster parents and the assigned social

service worker of any child determined to be medically fragile. Children born in Kentucky have their hearing tested before going home from the hospital. The staff in the Early Hearing Detection & Intervention (EHDI) program can help find services for more testing and resources if a child has a hearing loss. The Foster Care Support Program has a CCSHCN nurse consults in each of the nine DCBS service regions statewide. The nurse consultants are available to all social service workers at any time for matters concerning children in or at risk of out-of-home placement, not just those determined to be medically fragile.

Ms. Cecil stated that in collaboration with the University of Kentucky, CCSHCN maintains a primary pediatric care clinic staffed by professionals familiar with the unique culture of foster care. An array of assessment and care provision/coordination services are available to children in the welfare system. Transition planning and parent consultants help children and families plan and prepare for changes as the children grow.

A presentation on proposed legislation of the Kentucky State Assembly of Surgical Technologists was given by Peggy Howard, Surgical Technology Director, Kentucky Community and Technical College System (KCTCS), Owensboro, Herman Kaebnick, M.D., Vascular Surgeon, Sandra Smith, RN, BSN, Surgery Educator. Ms. Howard stated that the legislation has two objectives: 1) improve patient safety by ensuring all surgical technologists employed in Kentucky healthcare facilities in the future have demonstrated and documented competency as entry-level practitioners, and 2) increase the professionalism and regard for Certified Surgical Technologists amongst their peers. She stated that the KCTCS currently has nine statewide accredited Surgical Technology programs providing associate degree and diploma education. The programs include basic courses to prepare the student, followed by eleven months of intensive classroom and clinical study. Students will successfully complete 13-22 General Education credits coupled with 34 additional college credit hours in surgical technology studies. She said that Surgical Technology practice has a vast potential to impact patient care negatively, and therefore, requires formal training in anatomy, physiology, and surgical procedures that cannot be readily obtained with basic on-the-job training.

The legislation: 1) creates a route-of-entry to the profession of surgical technology after a date certain in the future; 2) creates a hospital credentialing rule via legislation that requires that hospitals hire Certified Surgical Technologists to serve in surgical technologist positions in the operating room; 3) defines the practice of surgical technology; and 4) grandfathers existing practitioners to avoid a shortage of available surgical technologists for surgical patients in any

state. The legislation will not: 1) create a shortage of surgical technologists; 2) put existing surgical technologists out of work; 3) force existing surgical technologists to return to school; and 4) impinge on the right of any other duly licensed or credentialed professional in the state to practice.

Dr. Kaebnick stated that he is in favor of the legislation. Surgical technologists are a part of the surgical team, but are the only ones not certified. The main thing is have quality patient care. Ms. Smith stated that she supports the legislation because it would benefit patients by having highly trained people in the operating room.

Senator Denton asked if the legislation mandated hospitals had to use certified surgical technologists. Ms. Smith said there are credentialing schools available statewide. Senator Denton asked if it would be satisfactory if there was voluntary certification. Ms. Smith stated that this is already being done. The main goal is quality patient care. Senator Denton asked why it is necessary to study anatomy and physiology. Ms. Smith said that surgical technologists have to anticipate what tools the surgeon need and are also required to do retraction.

Senator Roeding asked who opposed the legislation, and they said they did not know. Ms. Smith stated that they are advocates for patients' safe care in the hospital and operating room.

Sarah Nicholson and Kim Dees of the Kentucky Hospital Association testified in opposition to the legislation. Ms. Nicholson stated that the Kentucky Hospital Association is in the process of surveying members in 126 hospitals statewide about the legislation. She said that surgical technicians are not available in all rural areas. There are only two states that mandate technicians have to be certified. Ms. Dees stated that the association would support the legislation if it is done in a safe fashion. She said that the hospitals establish and maintain competency of all employees on an annual basis. There are no current studies that state not having certified technicians was detrimental to patient safety. Hospitals need to be able to maintain flexibility when staffing surgical suites. The association supports education and voluntary credentialing, but hospitals should not have to have mandatory certification.

Senator Buford asked if there were enough qualified surgical technicians, and Ms. Dees said yes. He asked about the number of technicians are needed. Ms. Dees said there is no documentation that verifies a difference between certified and non-certified technicians. Senator Buford asked if the association had conducted a survey about the difference, and Ms. Dee stated not yet.

Senator Denton asked if certification of technicians would preclude non-certified technicians from being able to be in the operating room because it

would only be in the scope of practice for certified technicians. Ms. Dees stated that most hospitals do use certified personnel over non-certified personnel. Senator Denton asked if facilities in Jefferson County only used certified technicians. Ms. Dees stated that hospitals are trying to hire from accredited programs because the technicians already have the necessary training. Senator Denton asked if any lawsuits had been filed as a result of non-trained technicians. Ms. Nicholson stated that she was not aware of any that have been filed. Ms. Dees asked why we would want two standards of care, urban or rural, because every patient gets the same quality of care. Senator Denton asked about the statewide shortage of surgical technicians Ms. Howard stated that surgery technology will continue to have openings. There is an 80% employability rate after graduation. Senator Denton asked about the cost. Ms. Howard stated the cost is \$121 per credited hour times 35 plus the cost of perquisite classes.

Senator Harper Angel asked if certified technicians want higher pay. Ms. Howard stated that her hospital has a surgical level where when you finish all the necessary training you get a raise.

There being no further business, the meeting was adjourned at 3:26.

INTERIM JOINT COMMITTEE ON JUDICIARY Minutes of the 3rd Meeting of the 2008 Interim September 16, 2008

The third meeting of the Interim Joint Committee on Judiciary was held on Tuesday, September 16, 2008, at 10:00 AM, in West Liberty, Kentucky. Senator Robert Stivers II, Chair, called the meeting to order, but delayed the call of the roll until later; a quorum was not present. Chairman Stivers recognized Bob Nickell, mayor of West Liberty, Tim Conway, County Judge/Executive of Morgan County, and Joanne Tobin with the MSU Center at West Liberty, who each spoke and welcomed the committee to the locality.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Kathy W. Stein, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Ray S. Jones II, Dan Seum and Katie Stine; Representatives Joseph M. Fischer, Derrick Graham, Darryl T. Owens, Arnold Simpson, Greg Stumbo and Robin L. Webb.

Guests: J. Michael Foster, President-Elect, Kentucky Association of Counties, Brucie Moore, President of the Kentucky County Attorneys Association and Tom Crawford from the Dept. of Revenue who later joined the panel. Rebecca K. Phillips, Circuit Judge from the 37th Judicial Circuit was the final guest speaker.

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

Chairman Stivers moved to the first presentation on the agenda, which related to property tax bills. The two invited speakers were J. Michael Foster, President-elect of KACO, and Brucie Moore, President of the Kentucky County Attorneys Association. Tom Crawford from the Dept. of Revenue later joined the panel.

Mr. Foster began his presentation by noting that county offices in Kentucky are fee based, with fees generated in the course of that office's business being used to support the operation of the office as it provides services to the citizens. Also, in relation to tax bills, when the county attorney works to collect a bill, the county attorney does so pursuant to a contract with the Revenue Cabinet, and receives a commission for that work. Mr. Foster related that the collection of unpaid property tax bills has traditionally provided fee and commission income for county attorneys, county clerks, and sheriffs, but that increasingly the tax bills are being purchased and collected by private third party purchasers. By removing the tax bills from the public officers' collection process, those officers are being deprived of the fee revenue that has been traditionally generated by the collection of those tax bills. Mr. Foster related his belief that the tax bills are being purchased by private third party purchasers due to the fact that they carry 12% interest, and that the purchaser may also collect penalties and fees, including an attorney fee. He also related that he understands that while many of these purchasers are legitimate businesses who operate reasonably, he has heard that a number of the purchasers fail to work with or even communicate with the delinquent taxpayer in the hope of prolonging the time of the indebtedness with an eye toward maximizing the time that the 12% interest runs.

Mr. Foster further informed the committee that recent legislation allows the Commonwealth to purchase delinquent property tax bills. This allows the Commonwealth to benefit from the 12% interest, although the state is limited to holding a maximum of \$25 million in delinquent tax bills at any one time.

Mr. Foster also spoke to a developing problem that is occurring as the number of third party purchasers increases. That problem centers on determining who may purchase the tax bills when there are competing prospective purchasers. There is little statutory guidance as to who the bills should be sold to if multiple purchasers appear at the same time to purchase the bills.

In light of the foregoing, Mr. Foster informed the committee that Kentucky Association of Counties, the Dept. of Revenue, and other interested stakeholders were engaged in an ongoing effort to develop a comprehensive reform of the property tax bill process currently in place. The goals of the legislation are to retain fee funding for county offices, to

eliminate unnecessary steps in the system, and to make the system more taxpayer friendly with additional consumer protection systems built into the system. As an example, one change would be to eliminate the sheriff's sale of the delinquent bills, and just place the bills with the county clerk. Another would be the creation of some type of vetting process for the third party purchasers. Mr. Foster informed the committee that the hope was to have legislation ready for the upcoming session of the General Assembly.

Rep. Stumbo asked about the degree of latitude given to local officials when collecting delinquent property tax bills, with the response being that latitude exists with regard to penalties and interest but not as to the amount of the actual tax itself. Rep. Stumbo asked the same question in regard to third party purchasers, with the response being that latitude also exists there as to all amounts, but that it is seldom used.

Sen. Jones related that a problem he sees has to do with purchasers of a new property not receiving the tax bill for the property when it is purchased mid-year. Further, when the new owner attempts to contact a third party purchaser of the tax bill to pay it, there is a great deal of difficulty in having the phone answered. Sen. Jones offered that perhaps a better system of notifying new property purchasers of existing tax bills would be of assistance, and that the state may want a requirement that third party purchasers actually communicate with property owners. In response to Sen. Jones' question regarding fees and consumer protection, Mr. Foster reiterated that the ongoing drafting process was looking at all fees and that they desired to build consumer protection provisions into the legislation.

In response to committee concerns, Mr. Foster stated that third party purchasers had to wait 12 months before they could begin the process of initiating a sale of the property. Ms. Moore also informed the committee that legislation coming into effect this year requires that deeds contain information as to who will be responsible for the property tax bill. A non-compliant deed will be non-recordable.

Rep. Webb stated her desire to have the committee hear from the Attorney General and the Dept. of Revenue in regard to the property tax issue.

Sen. Seum asked if a mortgage company gets notified of unpaid tax bills. Mr. Foster replied that the answer was legally no, but that some county attorneys made that contact to assist in collection. Sen. Seum offered the thought that perhaps that contact should be required in light of HB 182 which requires that consideration be given to "in care of" addresses. Sen. Seum then asked about the calculation of the \$25 million cap imposed on the state's purchase of property tax bills, since they would seem

to be a good investment vehicle that the taxpayers could benefit from instead of private third party purchasers. Mr. Foster did not know how the \$25 million cap had been arrived at, and agreed that the bills could be a good investment for the state. Sen. Seum finished by observing that the system's current design made things unnecessarily complicated for ordinary citizens.

Rep. Owens inquired about the problems created by multiple potential third party purchasers attempting to purchase the same set of tax bills. Mr. Foster stated that the legislation being drafted would clarify how that situation would be resolved.

Rep. Simpson shared his experience from Northern Kentucky, that being that contact problems with third party purchasers are rare because the companies want the contact to occur so that they can be paid. He also alerted the committee to a statute that gives a purchaser from a prior year a preference in purchasing the bill for the same property the next year, since that process bypasses many of the local fees that would otherwise be imposed on the new tax bill. Lastly, Rep. Simpson also expressed displeasure in regard to the process of having relatively small bills become rather large in a short amount of time, stating that the property tax bill process was never intended to become an investment vehicle for large corporations.

Rep. Stumbo confirmed with the guests that eliminating the sheriffs' sale of delinquent bills is part of the legislative package being developed and further suggested looking at ways to have more collection done at the local level with those officials being perhaps given a little more latitude in the process of collecting.

Sen. Jones confirmed that even if the sheriffs' sale is eliminated that the bills would still be offered for sale, just at the county clerk's office. Sen. Jones also expressed his hope that the legislation would balance the need of local government to collect taxes needed by the government for public services with fairness to local residents.

Sen. Stivers asked about the fees currently allowed, and factors that drove the amount due on a delinquent tax bill. Ms. Moore went over the fees chargeable, including various administrative fees, attorney's fees, and interest. With regard to fees charged by local public officials in the collection process, Ms. Moore pointed out that with funding cuts made by the General Assembly, those fees are more important now than before if those offices are to continue to provide the same level of service.

Sen. Stivers stated that the issue of property tax bill collection was an important issue, and thanked the witnesses for the quality of their presentation and their effort in coming across the state to make that presentation before the committee.

Sen. Stivers next called Rebecca K. Phillips, Circuit Judge from the 37th Judicial Circuit, who presented the committee with information on the formation and operation of the new drug court in that circuit and with information on the operation of drug courts generally.

Judge Phillips informed the committee that the local drug court had been in operation in one county in the circuit for less than two years, and that it was in the process of expanding into the remaining two counties. The judge stated that in dealing with criminal defendants, part of her philosophy had to center on the idea of exacting punishment for a crime and in protecting society from future crime. In terms of protection, the judge stated that incarceration may not always be the best solution because of a lack of treatment programs, or that the person's sentence may be too short to qualify them for treatment while incarcerated.

In terms of treatment, Judge Phillips informed the committee that drug court participants undergo testing far more frequently than would occur in a typical probation or parole situation, with testing taking place even on holidays and weekends. Drug court treatment also tries to address post-treatment support issues to help prevent relapse. Part of this process can focus on lifestyle choices of the participants, with one example being persons who have never held employment. Drug court requires employment or the active seeking of employment. Participants also regularly journal and do homework assignments as a means of education and learning to self-identify problems and solutions.

An additional emphasis in drug court is requiring honesty from the participants, with penalties for dishonesty being as severe as those for using drugs. The judge stated that being honest can be a new experience for participants, who have led a life of making excuses to avoid responsibility. Another aspect of treatment has to do with identifying mental or emotional triggers for drug use. The judge stated that many participants used drugs as a way of dealing with these issues, such as boredom, anger, depression, etc. Drug court tries to teach people to deal with these issues through some means other than drug use.

The judge informed the committee that the drug court in her circuit had not run long enough to say if it had been a success, but that it looked like it would turn out that way as they had people who were succeeding in the program, and that drug court in Kentucky as a whole has been a success. To illustrate the point, the judge informed the committee that Kentucky now had 411 drug free babies born to drug court participants; babies that would have otherwise been born to a drug using parent.

In terms of needs, the judge related that in her area the biggest problem was transportation. Her circuit is comprised of three rural areas, and many partici-

pants do not have a driver's license, and do not have access to buses or taxis. She also thought that more treatment options and more capacity at existing drug treatment programs would be of assistance.

The judge also addressed a perception that drug court might be something of a "get out of jail free" card. With program participants beginning their day at 5:30 AM, being required to work, having to actively engage in treatment programs and drug court activities, and then having an 8:00 PM curfew, the judge's opinion was that a participant's daily life was not an easy one.

At the conclusion of the judge's remarks, Rep. Webb recognized and thanked the judge and audience member David Flatt, the Commonwealth's Attorney for the judge's circuit, for the hard work that they do in operating the drug court and working to get appropriate people placed into the program. Rep. Webb reiterated her view that drug court in Kentucky has proven to be a success.

Sen. Jones shared with the committee his experience gained from 14 years of practice that drug abuse is an ever increasing problem. He stated that he was looking forward to the work of the penal code subcommittee regarding the drug problem given the fiscal and human costs of drug addiction. Finally, he expressed hope that attention could be given to catching people earlier in the addiction cycle, such as when a person is charged with driving under the influence of a drug.

In response to a question from Rep. Graham, the judge stated that almost all of Kentucky's circuits now had drug courts operating in them. In response to further questioning, the judge informed Rep. Graham that drug testing is done in the drug court's offices, and that the circuits did collaborate on best practices. Each of the circuits uses a standard model with required protocols, but that local adaptations are encouraged to fit the needs and preferences of the community.

The meeting was adjourned at 12:05 PM.

THE INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 3rd Meeting of the 2008 Interim September 9, 2008

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Tuesday, September 9, 2008, at 2:30 PM Central Time, in Room A of the Convention Center at Kentucky Dam Village State Resort Park. Representative Mary Lou Marzian, Presiding Chair, called the meeting to order, and the committee assistant called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Julie Denton, Denise

Harper Angel, Jerry P. Rhoads, Richie Sanders, Jr., and Ken Winters; Representative Mary Lou Marzian, Co-Chair; Representatives John A. Arnold Jr., Will Coursey, Myron Dossett, C. B. Embry Jr., Bill Farmer, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Rick G. Nelson, Tom Riner, and Brent Yonts.

Guests: Dwight Lovan, Commissioner, Department of Workers' Claims; Donna Terry, Chief Administrative Law Judge, Department of Workers' Claims; John Gardner, Workers' Compensation Board; Judy Lawrence; Lucretia Johnson, Department of Workers' Claims; Tom Grace; Jerry Coomes; Representative Fred Nesler; Rusty Cress; Tyler Campbell, KY Chamber of Commerce; Ronnie L. Boggs; Ched Jennings; Bruce Roberts; Leroy Meadon; Don Sammons; Scott Miller; David Hall; Donna Brown; Bob McWilliams; Laurent Rawlings; Brenda Hernon; Anton Cunningham; J.R. Wilhite, KY Education Cabinet; Richard P. Mullins, Ky. Education Association; Owen C. Tucker; Lori Torres; and Richard Meyer.

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

Rep. Mary Lou Marzian welcomed members and guests and expressed the committee's appreciation to those who facilitated the meeting during the Labor-Management Conference at Kentucky Dam Village State Resort Park. Rep. Marzian recognized legislators and other officials in the audience, including: House Speaker Jody Richards, Rep. Darryl Owens, Rep. Jon Will Stacy, Rep. Fred Nesler, and Secretary J.R. Gray and Deputy Secretary Mark Brown of the Labor Cabinet. She recognized and congratulated Ray Crider who was recently appointed to the Unemployment Insurance Commission, and recognized members of the Labor-Management Conference Board. Sen. Alice Forgy-Kerr also expressed appreciation to those who facilitated the committee meeting during the conference.

Rep. Marzian introduced Dwight Lovan, Commissioner of the Department of Workers' Claims, and Donna Terry, Chief Administrative Law Judge for the Department of Workers' Claims. She called on Commissioner Lovan to update the committee on the feasibility of adopting the sixth edition of the American Medical Association (AMA) "Guides to the Evaluation of Permanent Impairment" for Workers' Compensation as required by SB 199.

Commissioner Lovan addressed the committee on the requirements of SB 199, which was signed by the Governor as an emergency act in early April of 2008. The bill required the commissioner to direct a study on the feasibility and advisability of adopting the sixth edition of the AMA Guides to the Evaluation of Permanent Impairment, or retaining usage of the fifth edition of the Guides. In conducting the study, SB 199 required the commissioner to seek input from groups representing labor, industry, com-

merce, and the medical and legal professions. Commissioner Lovan said that he has met with an informal study group involving representatives from each of the categories and information developed by this group was presented at the June meeting of the Interim Joint Committee on Labor and Industry. The purpose of the presentation at this meeting was to further update the committee, as the final report is due to the Legislative Research Commission by January 5, 2009. Commissioner Lovan said the sixth edition will likely go into effect on the regular effective date for bills passed during the 2009 General Assembly, unless findings prove earlier adoption would materially enhance the welfare of Kentucky's workers.

Commissioner Lovan explained the rating system currently used by the Department of Workers' Claims to assess permanent partial disability and permanent total disability. The permanent impairment rating means the percentage of whole body impairment caused by the injury or occupational disease as determined by the AMA Guides. The permanent disability rating means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b). Commissioner Lovan said that Chief Administrative Law Judge Donna Terry would further explain the math used to determine the weekly payment to individuals with permanent total and permanent partial disabilities.

Commissioner Lovan said that depending upon the impairment rating assigned, a statutory factor is multiplied by the rating. For example, an impairment rating of 10% under the AMA Guides would result in a disability rating of 8.5%, because the impairment rating (10%) would be multiplied by the statutory factor (.85) to determine the disability rating. He presented a table of impairment ratings under the AMA Guides and the corresponding factors or multipliers set forth in KRS 342.730.

Judge Terry explained that the job of the administrative law judge is to apply the statutory benefit scheme to determine disability benefits. She explained that there are three types of disability benefits:

1. Temporary Total Disability Benefits (TTD)

Awarded during a period of recovery from an injury or surgery.

Appropriate for so long as worker has not reached maximum medical improvement (MMI) and is unable to return to his customary employment.

Calculated at 2/3 of worker's average weekly wage (subject to the statutory state maximum TTD (cap of \$670.02 for 2008).

Example: Average Weekly Wage = \$600, TTD = \$400 per week.

2. Permanent Total Disability (PTD) Benefits

Awarded to a worker who has a

permanent impairment rating under the AMA Guides and has a complete and permanent inability to perform any type of work.

Administrative Law Judge will consider workers' age, education level, medical restrictions, and prior work experience.

Calculated using 2/3 of workers' average weekly wage (subject to statutory maximum cap of \$670.02 for 2008).

Payable until worker qualifies for old-age Social Security benefits.

3. Permanent Partial Disability (PPD) Benefits

Based upon a permanent disability rating calculated by multiplying a permanent impairment rating under the AMA Guides by a statutory grid factor contained in KRS 342.730.

Calculated at 2/3 of workers' average weekly wage (subject to statutory state maximum PPD cap of \$502.51 per week for 2008).

Payable for 425 weeks; if disability rating is over 50%, award is for 520 weeks.

Example: Average Weekly Wage = \$600, AMA Guides impairment rating 10%. Permanent disability rating = 8.5% (10% x .85 factor). \$400 (2/3 of \$600) x 8.5% = \$34 per week.

Judge Terry said that PPD benefits will be most affected by the adoption of the sixth edition of the AMA Guides. She explained that for PPD benefits only, there are "multipliers" available. A worker who does not retain the physical capacity to perform the type of work performed on the date of injury receives three times (3x) the basic weekly benefit. A worker who returns to work post-injury at the same average weekly wage, but who subsequently earns less is entitled to 2x the basic weekly benefit during any period of lesser earnings. The 2x benefit applies regardless of the reason for the cessation of earning the same wage level and whether the reduction is temporary or permanent. She further explained that age and education are factors in the disability benefit determination. If a worker lacks the physical capacity to return to the same type of work, he or she may be entitled to additional benefits based upon advancing age or limited education.

Commissioner Lovan presented some preliminary comparisons of impairment ratings under the fifth and sixth editions of the AMA Guides. He focused on impairment ratings for the upper and lower extremities and the spine, which account for approximately 70% of Kentucky's workers compensation claims. The most significant preliminary differences in impairment ratings appear to involve the lower extremities, especially for total knee, hip, and ankle replacements, and there are major differences relating to cervical and lumbar fusions.

The sixth edition contains impairment ratings for some conditions, such as those relating to psychiatric disorders

and pain that do not exist in the fifth. The sixth edition also contains a significant change in the methodology used by physicians to determine impairment ratings.

Commissioner Lovan explained that Kentucky is not unique in not immediately adopting the sixth edition of the AMA Guides. Several states do not specify a particular edition, several states have state specific impairment recommendations, and the majority of states are currently using the fifth or fourth editions. New Hampshire, Vermont, Tennessee, and New Mexico have delayed adoption of the sixth edition, but Alaska has officially adopted it.

Rep. Marzian thanked Commissioner Lovan and Judge Terry for their presentations and asked why there are such radical differences in the impairment ratings between the fifth and sixth editions and if the AMA had provided any explanation for the differences.

Commissioner Lovan responded that, based on information he has gathered from physicians, the sixth edition's ratings are based more on physical results from treatments rather than specific medical procedures. The other rationale provided was that the fifth edition's impairment ratings were too high.

Sen. Rhoads asked if the system of rating impairment could be described as a "one-size fits all" approach. Commissioner Lovan agreed that was a fair statement. Impairment rating does not take into consideration the worker's occupation. Sen. Rhoads asked if the disparity in ratings between the fifth and the sixth editions regarding cervical and lumbar fusions would result in a further disparity in the final analysis when applying the multipliers. Commissioner Lovan agreed that it would.

Sen. Harper Angel asked why Tennessee initially adopted the sixth edition, but later returned to the use of the fifth. Commissioner Lovan explained that the Tennessee statute put the sixth edition into effect before adequate copies of that edition were distributed. Tennessee's Attorney General issued an opinion stating that it was unconstitutional to use the latest edition available rather than a specific edition.

Rep. Farmer asked if the National Council on Compensation Insurance (NCCI) used the fifth or sixth edition when it made the recommendation to lower workers' compensation rates. Commissioner Lovan said that the recent NCCI loss cost filing that recommended a decrease was based upon the fifth edition.

Rep. Marzian announced that pending LRC approval, the October meeting of the Interim Committee on Labor and Industry will be held October 23rd in Lexington jointly with the Interim Joint Committee on Economic Development and Tourism. There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 3rd Meeting of the 2008 Interim September 12, 2008

The 3rd meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, September 12, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Joni L. Jenkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Joni L. Jenkins, Co-Chair; Senators Tom Buford, Julian M. Carroll, Perry B. Clark, Julie Denton, Ray S. Jones II, Bob Leeper, and Dan Seum; Representatives Larry Clark, Ron Crimm, Tim Firkins, Dennis Horlander, Dennis Keene, Adam Koenig, Charles Miller, Tim Moore, Ruth Ann Palumbo, Carl Rollins II, and Ron Weston.

Guests: Brigadier General Norman E. Arflack, Commissioner, LaTasha Buckner, General Counsel, and Danny Reed, Malt Beverage Administrator, Department of Alcoholic Beverage Control; Jeffery Russell, M.S., C.Ac., and Oliver Barber, State Advisory Committee on Acupuncture; and Todd Leatherman, Executive Director and Kevin R. Winstead, Assistant Attorney General, Office of Consumer Protection.

LRC Staff: Tom Hewlett, Bryce Amburgey, and Susan Cunningham.

Representative Jenkins called the meeting to order and asked for a motion to adopt the minutes from the August 22, 2008, meeting. There was a motion and a second, and the minutes were adopted by voice vote.

First on the agenda, Brigadier General Norman Arflack, Commissioner of the Department of Alcoholic Beverage Control, Danny Reed, Malt Beverage Administrator, and LaTasha Buckner, General Counsel, gave an update on the U.S. Supreme Court's decision on interstate wine shipments, and potential issues for the 2009 General Assembly. Gen. Arflack said one item that the department was concerned about is how potential legislation would impact special events such as the World Equestrian Games in 2010. He said that the department was working with the Public Protection Cabinet and the Governor's Office to ensure that regulations would be in place and that people from around the world visiting Kentucky would want to return. Gen. Arflack said, regarding the Granholm decision allowing out-of-state wineries to ship into Kentucky, the department was complying with the attempt to level the playing field. He said that Judge Charles Simpson upheld the majority of changes implemented with the passage of Senate Bill 82 in the 2006 General Assembly. However, Judge Simpson ruled that the "in-person requirement" violates the

Commerce Clause, and currently the department is not enforcing that section of the KRS. Gen. Arflack said that this decision is still in litigation.

Regarding out-of-state wine sales and licensing small farm wineries, Gen. Arflack said Kentucky has licensed 46 in-state small farm wineries and there are seven applications pending. He said Kentucky has licensed 13 out-of-state small farm wineries and has only one application for an out-of-state winery pending. There is an average of eight consumer inquiries a month regarding out-of-state wine shipments, with a slightly higher number of calls from out-of-state wineries regarding out-of-state shipments.

Senator Carroll asked if the ruling by Judge Simpson had been appealed. Gen. Arflack said it had been remanded back. LaTasha Buckner, General Counsel for the department, added that the department is currently not a party to the suit. Senator Carroll also asked if the department was giving consideration for changes to accommodate the World Equestrian Games. Gen. Arflack said the department was currently working with the Horse Park to ensure that the venue was fully serviced. Danny Reed, Malt Beverage Administrator, added that some of the Horse Park's boundaries were in Scott County, which is a dry county, so the department would have to address that issue. Senator Carroll asked if the department would address revenue issues. Gen. Arflack responded that the department is looking at fee adjustments. Senator Leeper asked what the consumer's options were to order out-of-state wine today. Gen. Arflack said that with the court ruling, consumers could order wine over the phone or purchase via the internet. Senator Buford asked if there had been any violations since Senate Bill 82 had been enacted. Ms. Buckner responded that the only violation would be if an out-of-state winery shipped wine into Kentucky without a Kentucky small farm winery license. Senator Buford also stated that he has been told that some retailers are discontinuing local winery's labels if the winery wasn't siding with them against larger retail chains obtaining the right to sell alcoholic beverages. Gen. Arflack and Mr. Reed both responded that the department had not received any complaints of this nature. Senator Buford asked if the Small Farm Winery Distribution Fund had been exhausted. Virginia Davis responded that the fund was set up in the Department of Agriculture. Senator Tapp said he did not know the balance of the fund and suggested that the Department of Agriculture come to the committee's November meeting to give an update on the entire program. Representative Jenkins said that staff reported to her that consumers are calling to say that common carriers such as UPS and Federal Express do not understand the status of wine shipments and are refusing to transport wine. Gen. Arflack

responded that they are aware of the situation and will have a legislative proposal to address the issue. Representative Moore said that as a UPS common carrier he is not allowed to transport alcoholic beverages. Representative Jenkins asked where the department was on the issue regarding minors on the premises where alcohol is served. Gen. Arflack said the department has clarified certain venues designated as concert venues that meet certain criteria to allow minors on the premises.

Next on the agenda, Jeffery Russell, M.S., C.Ac., from Bluegrass Chinese Medicine in Louisville; representing the State Advisory Committee on Acupuncture, gave an update on the status of acupuncture certification in Kentucky. Mr. Russell said prior to the passage of House Bill 17 in the 2006 legislative session, most people in Kentucky did not understand acupuncture. He testified that with the passage of the acupuncture legislation Kentucky rose to the same level of professionalism and public protection as the 43 other states that regulate acupuncturists. The passage of this legislation allows for laws and regulations that permit qualified acupuncturists to work as independent practitioners. He said that when the legislation was passed, 18 people applied and were certified, and there are now 41 certified acupuncturists in Kentucky. He noted that the Kentucky Board of Medical Licensure (KBML) has issued nine letters to cease practice to non-licensed practitioners with little or no response due to the minor penalties that result from non-compliance. Mr. Russell noted that House Bill 17 requires an acupuncturist to notify the patient's treating physician if one of ten specific health conditions is noted on the initial office consultation. Notification must be made before performing acupuncture treatments, even though approval from the treating physician is not required. If the physician does not respond after a second notice the acupuncturists may proceed with treatment. Mr. Russell said it is generally felt that this regulation is unnecessary and a burdensome barrier to treatment for both patients and the practitioners, since there are no medical contraindications or negative implications related to using acupuncture on the ten health conditions. Mr. Russell stated that the Acupuncture Advisory Committee is interested in revising three issues. He said the committee would like to change the current penalty for non-physicians practicing acupuncture without certification from a misdemeanor to a felony; eliminate the requirement to notify physicians of patients who are being treated for any of the ten medical conditions listed in KRS 311.680 who are seeking acupuncture treatment; and to change acupuncturist from certified to licensed. Mr. Russell told the committee that licensure would help patients with insurance coverage that limited payments to

licensed practices. Currently they have to travel to other states; Indiana, Ohio and Tennessee, that license acupuncturists for treatment to be covered by insurance.

Representative Keene asked if piercing the skin was considered a medical procedure. Mr. Russell said that prior to the legislation that definition was a gray area, but House Bill 17 clarified the definition. Representative Miller asked how other states' guidelines affected Kentucky's acupuncture statutes. Mr. Russell said that in Tennessee, Ohio, West Virginia, and other surrounding states, licensing acupuncturists allow the practitioner to bill insurance companies and receive reimbursement without questioning his or her credentials. Mr. Russell added that there was no reciprocity from state to state for practitioners. Representative Koenig asked if patients who had insurance coverage currently could apply for reimbursement for acupuncture treatments, and if the certification was changed to licensure would the insurance company be required to pay a claim. Mr. Russell responded that the variance was among policies rather than companies depending on the policy and benefits granted. A claim could be denied because the practitioner was only certified rather than licensed. Senator Jones asked what the requirements were to become an acupuncturist and if a patient could seek acupuncture treatment without a referral from a treating physician. Mr. Russell said that acupuncturists were a standalone profession, and did not require a physician referral. He said; however, that he had developed relationships with internists, D.O.'s, and General Practitioner's as well as surgeons and some of them referred patients to him. Mr. Russell said that to be certified in Kentucky you must attend a school accredited by the National Commission for Certification of Acupuncture and Oriental Medicine (NCCAOM) and complete a course of training comparable to a four-year Master's degree. Chairman Tapp asked how many of the 43 states had licensure versus certification. Mr. Russell responded that he was unsure but thought approximately 80% were licensed. Senator Leeper asked if a medical doctor was required to have training to practice acupuncture and if insurance companies would reimburse medical doctors who practice acupuncture. Mr. Russell said he was aware of only a small number of M.D.'s practicing acupuncture because they are not trained, adding that he did know of doctors who had taken the Joseph Helm's Course for M.D.'s in Berkley, California. Mr. Russell also said that Dr. Moureen Flannery in Berea was now practicing only acupuncture; however, she was not using her credential as a physician to collect insurance.

The final item on the agenda was a report from Todd Leatherman, Executive Director of the Attorney General's Office of Consumer Protection, and Kevin Win-

stead Assistant Attorney General, on the implementation of Senate Bill 57, the "Christine Talley Act." The act related to personal emergency response systems and was passed by the 2008 General Assembly. Mr. Winstead said the office has a simple plan for implementing the act, beginning with educating the industry and the consumers on how the new legislation affects the Personal Emergency Response System (PERS). He said that a questionnaire would be distributed to associations and companies that provide the service in Kentucky and to community organizations as well as state agencies such as the Department for Aging and Independent Living. He stated the office will also distribute its publication, Helping Seniors. Mr. Winstead said that, beginning in January, all county attorneys will have enforcing authority and that the Prosecutors' Advisory Council will support education and enforcement procedures for the county attorneys. He said, at the appropriate time the Attorney General's Office will have press releases to advise consumers and increase visibility concerning the bill and how the industry and consumers can comply. Mr. Winstead said that while the bill was effective now, there is no requirement for action by the companies until January 1, 2009. He said that after this date the contracts with the companies are required to provide certain provisions to make sure that the consumers using the service can list 911 as the first number called when they signal an emergency. Mr. Winstead said that for any contracts in effect prior to this date, the companies must send out a notice to the consumers allowing them to make changes to their call list. He said companies and consumers should receive this information by the end of September, allowing ample time to make necessary changes. Mr. Winstead said that beginning in January the office would begin the normal process of resolving complaints, taking legal action when necessary. He said this would include enforcing compliance or obtaining civil penalties when appropriate. The maximum penalty could be \$10,000 for a knowing violation. He said that all complaints are tracked, allowing the office to have information with regards to changes that would be made to educate and enforce the bill.

Senator Buford thanked the office for their work in implementing the legislation, saying that prior to this act there was no protocol for a company when an alarm came in with no response. Senator Clark asked if the Helping Seniors booklet was printed and available. Mr. Winstead responded that there was a version available; however, these provisions have not been added.

Chairwoman Jenkins asked if there were further questions. Senator Leeper asked Mr. Leatherman if he was aware of rumors of gas prices rising in response to Hurricane Ike. Mr. Leatherman said they were beginning to receive calls and were

working to determine the most appropriate course of action in dealing with the situation.

Chairwoman Jenkins asked if there was other business to come before the committee. Representative Crimm said that, approximately one month earlier, the Jefferson County Delegation had been invited to meet with different levels of Bingo operators in Jefferson County. He said that during the meeting they were told disturbing stories regarding their Bingo operations. Representative Crimm asked if staff from the Office of Charitable Gaming could return to the committee for questions to determine the validity of the complaints. Chairwoman Jenkins responded that she would discuss the matter with the Senate Chairman and thanked Representative Crimm for attending the Bingo meeting with herself and Representative Firkins.

There being no further business to come before the committee the meeting was adjourned at 11:55 a.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 2nd Meeting of the 2008 Interim September 24, 2008

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, September 24, 2008, at 10:00 AM, 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 Steve Riggs, Co-Chair; Senators Julian M. Carroll, Ernie Harris, Elizabeth Tori, and Johnny Ray Turner; Representatives Ron Crimm, Mike Denham, Ted Edmonds, David Floyd, Derrick Graham, Richard Henderson, Charlie Hoffman, Dennis Keene, Adam Koenig, Tom McKee, Brad Montell, David Osborne, Arnold Simpson, Ancel Smith, Ken Upchurch, and Jim Wayne.

Guests: Representative Jimmie Lee; Matt Wyatt, Bill Bennett, Steve Atcher, Rudy Mays, and Tim Walker, Elizabethtown citizens; Ken Warden and Jim Schack, Northern Kentucky Association of Realtors; James Sharp, Kentucky Association of Realtors; Richard Moloney, Bill Swope, George Mann, Rose Baker, and Dawn Bellis, Department of Housing, Buildings & Construction; David Willmoth, Mayor, City of Elizabethtown; Larry Klein, City of Covington; J. D. Chaney and Bert May, Kentucky League of Cities; J. David Carter, AIA Kentucky; Ned Sheehy and Bill O'Mara, Lexington-Fayette Urban-County Government; Tom Troth, Kentucky Association of Counties; Greg Engleman, City of Erlanger; and Jeff Bechtold, Northern Kentucky Area Planning Commission.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Dave Nicholas; Jack Kennedy, and Cheryl Walters.

Upon the motion of Senator Harris,

seconded by Representative Crimm, the minutes of the June 25, 2008 meeting were approved.

The first order of business was discussion of city classification. Chairman Thayer recognized Representative Jimmie Lee to address the committee. Representative Lee told the committee that the General Assembly has never acted on Section 156A of the Constitution, which was to devise a new system of city classification. He noted that a lawsuit has been lodged against the City of Elizabethtown challenging the appropriateness of its current status as a city of the fourth class when it has the population to be classified as a city of the second class under the present classification system. Representative Lee stated that he sponsored a resolution during the 2008 session that would create a task force to study city classification. He said that the resolution failed to pass.

Representative Wayne asked why cities are classified. Representative Lee replied that is one of the questions that needs to be answered. He said it his hope that by creating a task force to study city classification, that those types of questions can be answered.

Representative Simpson commented that classification is a relic of the past and should be scrutinized and reviewed. He commended Representative Lee's efforts. He noted that different classes of cities can enact different kinds of taxes.

Representative Montell commented that he thought it was a good idea to study city classification.

Chairman Thayer pointed out that a similar situation has occurred in his and Representative Hoffman's district where the leaders of the City of Sadieville sought reclassification as a city of the fifth class but does not have the required population. He continued to say that the City of Georgetown has the population to be reclassified as a city of the second class but is not interested in being reclassified.

Chairman Thayer next recognized Mr. J. D. Chaney with the Kentucky League of Cities (KLC). Mr. Chaney told the committee that the League supported Representative Lee's resolution during the 2008 session. He explained that classification has gone by the wayside. Mr. Chaney stated that the League continues to support Representative Lee's efforts.

Chairman Thayer asked if the League had a proposal or recommendation on what should be done regarding city classification. Mr. Chaney replied that Representative Lee's efforts will stimulate some lively discussion among the members of KLC. He said the League has no formal proposal, but that classification should probably be done away with, and cities should be able to use their home rule powers.

Representative Simpson commented that any kind of proposals should start with KLC.

Chairman Thayer suggested that KLC should come before the legislature with recommendations.

Chairman Thayer next recognized Mr. Steve Atcher, Mr. Bill Bennett, and Mr. Matt Wyatt, citizens of the City of Elizabethtown. Mr. Bennett told the committee that they were present because the General Assembly failed to act upon the requirements of Sections 156a and 156b of the Constitution that the voters of Kentucky approved in 1994, thus leaving Section 156 intact and still the law of the land concerning city classification. He noted that it is the unpopular restaurant tax that the Elizabethtown city government passed, under the guise of tourism, which has precipitated their actions.

Mr. Bennett stated that their research concerning the classification laws of Kentucky have shown that Elizabethtown, with a population of almost 25,000, is masquerading as a city of the fourth class when in actuality, based on population, Elizabethtown is a city of the second class. He said it is their hope that the legislation of the Commonwealth holds Elizabethtown and other cities across Kentucky accountable with regard to the classification laws. However, Mr. Bennett noted that this cannot be done until the General Assembly finishes what it started, which would be crafting clear and concise classification laws based on population, and not on the whims of local elected city officials and tourism boards.

Mr. Atcher told the committee that three city councilmen and the mayor of Elizabethtown were able to exploit municipal restaurant tax law due to the incompleteness of the work assigned to the General Assembly in 1994. He added that there is another ramification of the unfinished work of Section 156a. By refusing to reclassify Elizabethtown from a city of the fourth class to a city of the second class in accordance with its population, Mr. Atcher pointed out that Elizabethtown's mayor may continue to run for an unlimited number of consecutive terms of office, whereas as a mayor a city of the second class city may serve only three consecutive terms. He added that Elizabethtown's mayor is now in his third consecutive term.

Mr. Atcher explained that on June 1, 2007, a group of Elizabethtown citizens petitioned the mayor and the city council to reclassify Elizabethtown properly as a city of the second class. In spite of this petition, he said the mayor and city council again refused to reclassify properly. Mr. Atcher stated that in October of 2007, three city councilmen and the mayor of Elizabethtown voted to impose a restaurant tax ordinance only authorized for cities of the fourth and fifth classes in a city that has the population to qualify as a city of the second class. He pointed out that this action generated a lawsuit against the city by a group of Elizabethtown citizens. The suit asked

the judge to place an injunction against the restaurant tax and to direct Elizabethtown to reclassify as a city of the second class. The judge ruled she could not enjoin the tax because she found that only the General Assembly could resolve a city classification matter. So, it really is up to the General Assembly to fix the city classification system of this Commonwealth to prevent further occurrences of events like what happened in Elizabethtown.

Mr. Wyatt asked the committee if cities can just pick and choose between classifications, how can a citizen of any city in the Commonwealth understand under which laws their city government must operate. He said the entire Commonwealth is open to controversy and the abuse of municipal laws if this situation is allowed to continue. Mr. Wyatt recommended that the General Assembly do two things: (1) amend KRS 81.032 to require cities to reclassify immediately to the classification they belong to, per Section 156 as of this date; and (2) complete the work mandated to the Kentucky General Assembly by Section 156a of the Kentucky Constitution by defining a mandatory city classification system to which every Kentucky city must adhere, in order to eliminate any future city from cherry-picking whatever classification it wants.

Representative Riggs told the panel that they need to be in front of the city council or run for city council and mayor. He said that under current law the legislature cannot change Elizabethtown's classification unless the city council tells them too.

Mr. Atcher suggested that the legislature change the classification law to make it clearer.

Senator Tori commended the panel for its efforts and stated that city classification is a very complex issue. She said she feels sure that a resolution can be made to solve this problem. Senator Tori agreed that there should be clear-cut rules and guidelines for classification. She suggested that the panel talk to the legislature when it has a proposal.

Representative Simpson suggested that the panel urges its leaders to revise KRS 81.032, which relates to the requirements for reclassification.

Representative Henderson stated that the legislature is reluctant to get involved in local control.

Representative Graham suggested that the panel work with their local officials. He said this issue should be resolved at the local level.

Senator Carroll asked each member of the panel if they would support giving cities of the second class the ability pass a restaurant tax. When asked to provide a "yes" or "no" response, Mr. Atcher did respond affirmative or negatively. Mr. Bennett replied that the voters should be given the opportunity. Mr. Wyatt replied, "No."

Chairman Thayer recognized Mayor

David Willmoth, City of Elizabethtown. Mayor Willmoth told the committee that the citizens should know what other regulations are out there for other cities before we have classification legislation. He said cities and counties should have flexibility. Mayor Willmoth stated that the City of Elizabethtown sees the restaurant tax as an economic tool to bring commerce to the community.

The next order of business was discussion of occupational license fees. Chairman Thayer recognized Mr. Ken Warden, Chair of the Northern Kentucky Association of Realtors. Mr. Warden first provided the committee with a brief background and update on where the realtors are with this issue. He emphasized that realtors strongly believe in paying all business and payroll taxes owed in a timely and accurate manner, and are not attempting to exempt themselves from what they lawfully owe. Mr. Warden said they do, however, feel that the current method of paying occupational taxes could easily be improved.

Mr. Warden told the committee that occupational license tax issues impact businesses throughout Kentucky. He noted that in Northern Kentucky, where the assessment of occupational licensing taxes is predominant, it has become a very complex and difficult system for most businesses to comply with. Mr. Warden pointed out that this system must be simplified, especially as more and more municipalities adopt this type of system. He explained that the way taxes are collected varies from city to city and county to county as well as varying tax rates, filing deadlines, and who is required to file. To further complicate the matter, Mr. Warden said each municipality has a different tax rate and reporting form. He added that in many instances, the cost of having the tax forms prepared is more than the tax due.

While there has been some progress in their communities to work together and get each county use one form, Mr. Warden stressed that with 120 counties in Kentucky, this simply is not the solution. He mentioned that in Northern Kentucky, many of their businesses work across several city and county lines and are required to file with each local government where they conduct business. Mr. Warden told the committee that last year, the realtors proposed legislation that would establish an online reporting system for all municipalities that would allow businesses who conduct their business on a multi-jurisdictional basis to go to one website and complete their return. He noted that there was some misconception to that bill in that people thought that all of the money would go to Frankfort and some of the municipalities would not receive the money to which they were entitled. Mr. Warden emphasized that centralized collection can be accomplished by having the funds automatically distributed to the appropriate local bank accounts. Through this

system, he said local municipalities can receive their funds within 48 hours of payment.

Mr. Warden explained that the system would be available for audit by local jurisdictions, and the realtors believe it would reduce tax collection costs for local jurisdictions and encourage filing by more businesses. He said the cost of creation and maintenance of this system could be offset by a file fee, saving independent business people tremendous paperwork and preparation expense. Mr. Warden pointed out that the realtors are currently working with Kenton County to improve that county's system and it is the realtors' hope that their efforts can be expanded to the entire state.

Representative Simpson asked if Kenton County's system could be used as a model for other counties. Mr. Warden replied that it would be part of the solution, but that it still goes back to doing everything with paper.

Mr. Jim Schack, President of the Northern Kentucky Association of Realtors, told the committee that this system is just not for realtors, but for small businesses as well. He said the process needs to be simplified so more people can be in compliance.

Representative Simpson suggested that the realtors work with the local officials.

Representative McKee asked what the opposition to the system was. Mr. Warden replied that people thought the money would go to Frankfort and never make it back home.

Senator Carroll suggested that enabling legislation be passed for cooperative effort.

Representative Keene stated that he sees their frustration. He asked if Campbell County Judge/Executive Penderly was in favor of the system. Mr. Warden replied that they have met with Judge Penderly, but it goes nowhere.

The last item of business was review of Kentucky Administrative Regulations 815 KAR 7:070, relating to the Kentucky Certified Building Inspector Program, and 815 KAR 7:125, relating to the Kentucky Residential Code. Chairman Thayer introduced Mr. Richard Moloney, Commissioner, Mr. George Mann, Deputy Commissioner, Division of Building Codes Enforcement, and Ms. Dawn Bellis, General Counsel, Department of Housing, Buildings and Construction.

Representative Riggs recommended that the panel consider language to be included in the 815 KAR 7:070 to require the appropriate surety bonding of inspectors in order to protect the property owners. The panel agreed to review the language recommended by Representative Riggs.

Representative Edmonds thanked the panel for all of the help they have given him to in turn help his constituents.

Representative Denham asked if there was a change in the fee schedule

listed in the building code. Mr. Mann replied that there was no change and that the fee schedule was already in the building code.

Regarding 815 KAR 7:125, Representative Riggs requested that the minutes reflect that the fire protection community is concerned that the regulation would hamper their efforts at providing for fire safety.

Chairman Thayer announced that the next meeting of the committee would be held on October 17th in Louisville at the Kentucky League of Cities' annual convention.

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

INTERIM JOINT COMMITTEE ON SENIORS, VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION Minutes of the 3rd Meeting of the 2008 Interim September 4, 2008

The 3rd meeting of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection was held on Thursday, September 4, 2008, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Denise Harper Angel, Joey Pendleton, Jerry P. Rhoads, Dorsey Ridley, Dick Roeding, Katie Stine, and Jack Westwood; Representatives Larry Belcher, Tom Burch, Dwight D. Butler, Larry Clark, Tim Couch, Ron Crimm, Bill Farmer, David Floyd, Jeff Greer, Jimmie Lee, Tim Moore, Rick G. Nelson, Fred Nesler, Steve Riggs, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Charles Siler, Dottie Sims, and Ancel Smith.

Guests: Keith Kappes, Vice President for University Relations Institute; Art Craig, Director, Kentucky Community and Technical College System, Kentucky Approving Agency for Veterans Education; Larry Cook, Executive Vice President for Health Affairs, and Shannon Turner, Assistant Vice President for Health Affairs, University of Louisville.

LRC Staff: Erica Warren, CSA, Mustapha Jammeh, Andrew Coyle, Clint Newman, and Rhonda Schierer.

Co-Chair Pullin asked members to take note of the minutes from the August 18, 2008 committee meeting. After a motion and a second, the minutes approved by a unanimous voice vote.

Co-Chair Pullin mentioned that Sergeant Keith Cooper was recently killed in Iraq and there would be a resolution at our next meeting. She asked members to keep his family in their prayers. Co-chair Pullin also mentioned that the National Guard had been deployed to the hurricane zone in Louisiana.

Co-Chair Pullin read a resolution

for a fallen soldier, Second Lieutenant Howard C. "Cliff" Enoch Jr., who died on March 19, 1945, when flying a World War II combat mission over Germany. His remains were discovered and identified by the United States Army on April 19, 2008. Co-Chair Pullin asked the committee to observe a moment of silence to honor his memory and also for all those who remain missing in action.

Co-Chair Pullin recognized a special guest, Brigadier John Heltzel, the new Director of Emergency Management for Kentucky.

Co-Chair Pullin introduced Keith Kappes, Vice President for University Relations Institute at Morehead State University and asked him to tell the committee about the Eagle Monument Veterans Memorial. He shared with the committee what their institution is doing to honor veterans and to encourage them and their families to take advantage of higher education. He stated that the first project in their efforts is to honor Captain William E. Barber, USMC, of Morgan County; by installing and dedicating a marker for alumnus Captain Barber on Veteran's Day. Captain Barber's name and achievements during WWII and the Korean War will be displayed on the University's Eagle Monument.

Co-Chair Pullin introduced Art Craig, Director of the State Approving Agency for Veterans Education for the Kentucky Community Technical College System (KCTCS). Mr. Craig shared KCTCS's role in veterans' education and training. He stated that when the legislature approved the creation of the community and technical college system, it provided a vehicle and environment that allowed their agency to best fulfill their role and responsibilities in the approval of programs eligible for GI Bill benefits.

Mr. Craig stated that their missions primary function is that of an approval agency of programs eligible for GI education benefits. They provide technical assistance, evaluate application information, conduct inspection visits, and notify public and private schools and training establishments of their approval or disapproval. Mr. Craig stated that in order for our veterans to receive educational assistance benefits while in the training phase of their employer, the agency approves on-the-job apprenticeship training in business and industry, joint apprenticeship training councils, and in the public sector.

Mr. Craig stated that state approving agencies are both the face and gatekeeper of the GI Bill at the state level. The U.S. Department of Veterans Affairs Education Service no longer maintains a presence in the Commonwealth of Kentucky. Without the presence of Veterans Affairs (VA) staff in Kentucky, the Kentucky Approving Agency for Veterans provides services mandated in federal legislation as well as value added services that benefit the veterans of Kentucky.

Mr. Craig stated that they currently have four full-time employees. Mr. Craig added that the newly passed Post 9/11 GI Bill created a sound base for funding state approving agencies in the future.

Mr. Craig shared information about the GI Bill and its impact on veterans and other eligible persons in Kentucky. He stated that in 2007 veterans and other eligible persons received \$46,140,000 in education and veteran's rehabilitation benefits for the year. Mr. Craig added the Post 9/11 GI Bill payment of benefits will begin for training pursued on or after August 1, 2009. He noted that individuals will remain eligible for 15 years after discharge. The new bill will also pay tuition and fees, monthly housing allowances, and a stipend for books and supplies. Mr. Craig concluded that this bill not only addresses readjustment into civilian life, but also contains stipulations that promote retention and reenlistment. Administration of the new GI Bill will be outsourced.

Co-Chair Pullin asked whether there was ever a VA education office in Kentucky. Mr. Craig stated that there was an Education Liaison Representative only and that the VA is consolidating offices around the country, and Kentucky's contact is now in Nashville, TN.

Co-Chair Tori asked about the outsourcing of the administration of the new GI Bill. Mr. Craig stated that the Education Service in the VA office and their staff have started the process. Mr. Craig stated that it has to be before August 1, 2009. He added that the VA Central Office staff claims it would take an additional 1000 staff to administer the program and that is why they are outsourcing it. Co-Chair Tori commented that she feels when the new GI Bill is put in place and troops are informed about benefits, it will swell enrollment in the KCTCS system.

Co-Chair Pullin called on General (Ret.) Les Beavers, Commissioner, David Worley, and Marty Pinkston, Deputy Commissioner, Kentucky Department of Veterans' Affairs (KDVA). Gen. Beavers gave a presentation on the KDVA's budget and legislation passed during the 2008 Regular Session. Gen. Beavers stated that the general fund in FY08 Actual was \$17,813,800 and the restricted funds for FY08 are \$26,643,100. He stated that the cost break down in the nursing homes is roughly 1/3 by the state general fund, 1/3 by the federal government, and 1/3 by the veterans themselves. Gen. Beavers stated that the only other operational offset they get is a \$300 plot interment allowance for every veteran that is buried. The FY09 revised shows that there is a 6% cut which amounts to over \$1 million. General Beavers gave a projected reduction plan of \$1,834,000 to include reductions in personnel through attrition, reduction in printing, fleet, outreach, contracting pharmacy services, eliminating daycare for staff, increasing maximum resident

charges, abolishing chaplain positions, reducing non-nursing staff, and reducing or eliminating travel in field operations.

Gen. Beavers continued the presentation and discussed key operational cost increases of up to \$632,114 due to the rising cost of supplies, food, medications, utilities, and fleet. Gen. Beavers stated that the daycare services would cease September 19, 2008, for the facilities staff for the Thompson-Hood, Eastern Kentucky, and Western Kentucky Veterans Centers. He stated that 21 employees will lose their positions in daycare but KDVA is trying to place them within the agency as positions become available. 14 employees have been placed into positions already.

Gen. Beavers stated that the Veterans Service Organization (VSO) training grant allocation for FY08 is \$67,500 and \$100,000 for FY09.

Rep. Riggs asked Gen. Beavers about the disparity of the number of veterans field representatives per region population. General Beavers stated that staffing is based on access, travel distance, number of claims in each region, and time for the veteran to get to the field office or veterans service organization. Gen. Beavers stated that veterans can file a claim online; Gen. Beavers noted that there can be a \$6,000 positive difference in an award for a veteran who has an advocate with expertise filing claims and providing representation; which is crucial for the veteran.

Sen. Stine asked about the governor's 4.5% cut reduction and if there was an explanation for it. Gen. Beavers stated that it shows their portion based on revenue shortfalls. Senator Stine asked about dental services for veterans. Gen. Beavers stated that the VA does not provide dental services. Co-chair Pullin suggested that the Veteran's Benefits Officer might be aware of dental clinics for veterans' dental needs.

Rep. Nelson asked about the cutting of \$100,000 for chaplain services and if the KDVA is spending any money on chaplain services. Gen. Beavers stated that the chaplains had not been eliminated yet, but the \$100,000 cut is programmed on the basis that the KDVA would eliminate the services and seek assistance from nearby pastors.

Sen. Roeding stated that Kentucky has lost 74 soldiers in the Iraq and Afghanistan Wars and wanted to know how many Kentucky soldiers were lost in Vietnam and in Korea. General Beavers stated Kentucky lost 1,100 in Vietnam and 90,000 served in Korea but he was unsure of the total of losses.

Rep. Floyd asked how long it took for the KDVA to go through the process of changing an administrative regulation. Gen. Beavers stated it took approximately 90 days. Rep. Floyd asked Gen. Beavers if they would like to keep the maximum charge for nursing home services specified by regulation or prefer more flexible language. Gen. Beavers stated it was

only recently that they had to go to a KAR because their legal authority to set a rate was challenged.

David Worley discussed specifics on the Kentucky veterans homes. Mr. Worley stated that the Thompson-Hood Veterans Center in Wilmore, Kentucky is the largest veterans center, Western Kentucky Veterans Center stays at full capacity with a waiting list, and Eastern Kentucky Veterans Center is at full capacity with the exception of 2 rooms due to residents with contagious issues. Mr. Worley pointed out that the federal government and the VA helped in getting 2 new community-based outpatient clinics opened in Owensboro and in Grayson County and they are working on getting clinics in Berea, Maysville, and Hopkinsville.

Mr. Worley stated that Kentucky averages 510 residents in all 3 veterans nursing homes on a daily basis. Currently 282 residents receive free medication from the VA. He pointed out that federal regulation was recently changed for any veteran with a 70% service connected disability or higher to have their daily regular care paid by the VA. He added that effective July 1, 2008, the VA stopped charging those qualified for any cost of care and the VA will retroactively pay for those residents eligible back to March 22, 1987.

Co-Chair Pullin asked Mr. Worley if the residents eligible for free medicine from the VA can possibly be paid for by Medicare Part B or by private health insurance. Mr. Worley stated that Medicare Part B only pays for some supplies but not for medication. Co-Chair Pullin asked if they bill private health insurance. Mr. Worley said no, the VA pays and it cannot bill the private health insurance due to the way the laws are set up for the nursing homes. Co-Chair Pullin stated that if something can be changed in the law to make it possible to bill private health insurance for some of the medications that the general fund is now paying for, she would like to help work with Mr. Worley to get that accomplished. Mr. Worley said that the VA bills a flat rate at the veteran's ability to pay.

Rep. Clark asked if the VA encourages and assists families enrolling people into the nursing homes. Mr. Worley said they help with paperwork and whatever they need. He added that they simply cannot bill their insurance company.

Sen. Westwood stated that last year they had a program called "Help Is On the Way" where a bus went through the state of Kentucky offering help with pharmaceuticals for those who would qualify. He asked Mr. Worley if the veterans homes are taking advantage of what that group offers. Mr. Worley stated that they had not because they get all their medications straight from the VA.

Rep. Nelson inquired about there being 510 residents and 724 employees and if the 724 employees included field representatives. Mr. Worley stated that

the 724 employees includes all the nursing home employees such as administrative people, maintenance people, and the nursing care employees. He added that a lot of nursing homes contract out their maintenance such as grass cutting, food, cooking, etc. but the VA employs all of these. Rep. Nelson asked how many of the 724 employees are caregivers. Mr. Worley stated that 68% of their employees are direct care nursing staff.

Mr. Worley moved forward with the presentation to their Capital Projects which included a 3-unit renovation and installing elevators to the Thompson-Hood Veterans Center, expansion at Western Kentucky Veterans Center, and the new Central Kentucky Veterans Center in the Hardin County area. Mr. Worley ended with discussing the U of L Robot Project and stated that Dr. Rimmel and U of L have looked at the estimate of how much installing wireless access at nursing homes was going to cost COT. That estimate was put as \$40,000. He added that U of L is gathering data for a comprehensive proposal. Co-chair Pullin added that in the state budget there is a veterans service improvement trust fund and that is an effort to help the VA to keep monies found to remain for veterans services instead of going back into the general fund hopefully to assist with some of the budget cuts the KDVA will endure. Mr. Worley stated that it was greatly appreciated.

Gen. Beavers continued by briefing the committee on the state veterans cemeteries. He stated that the Kentucky Veterans Cemetery (KVC) West facility was opened in March, 2004, and has 27,600 burial sites with a total of 914 interments, KVC Central has 6,100 burial sites and there have been 546 interments, and KVC North was dedicated on August 22, 2008, and had a burial capacity of 5,736. He added that a KVC is being designed for the Northeast in Greenup County and the master plan for this project will be submitted on October 20, 2008. Gen. Beavers added that they are looking at land in Leslie County for the 5th cemetery. Gen. Beavers spoke on the Burial Honors Program stating that in FY08 there were nearly 2000 burial honors.

Marty Pinkston, Deputy Commissioner, KDVA and Trust Fund board member to spoke next on the Veterans Program Trust Fund. Mr. Pinkston is the Secretary of the Board, which is composed of two statutorily named members, KDVA Commissioner and KDVA Deputy Commissioner, and eight appointees by the Governor.

Mr. Pinkston introduced 6 other members of the board in attendance. Mr. Pinkston gave several sources of income for the Veterans Program Trust Fund. He added that its purpose is to provide services or assistance to veterans that is not otherwise provided. Mr. Pinkston told the committee that the Annual Report from July 1, 2007, through June 30,

2008, for the Veterans Program Trust Fund was included in their folders and is a part of this record.

Mr. Pinkston asked Carlos Pugh, a member of the board who represents the VFW, to talk about the Honor Flight, which is a new program for the veterans. Mr. Pugh stated that there have been two Honor Flights, in which WWII veterans got to go to Washington, D.C. to see the WWII Monument. The cost is \$250 for each WWII veteran which is covered by the trust fund. Along with the 40 WWII veterans there are 15 caretakers that go on the flight who pay their own way. He added that there are 33,000 WWII veterans living in the state of Kentucky today and expressed his desire to get as many on the Honor Flight as possible.

Next representation from the University of Louisville (UofL) gave an update on the Veterans Nursing Homes Quality Enhancement Program. Shannon Turner, Assistant Vice President for Health Affairs stated that Dr. James Ramsey at UofL is very excited to be working with the veterans nursing homes and working towards getting the new VA hospital in Louisville. Ms. Turner turned the presentation over to Dr. Larry Cook, Executive Vice President for Health Affairs, UofL. Dr. Cook stated that there is a great demand for the 3 current facilities and that each is currently at capacity with extensive waiting lists for services. He added that part of the reason that UofL is involved is to provide the veterans nursing homes access to 24/7 specialty care such as neurology, geriatrics, and geriatric psychiatry. Use of the RP-7 robot enables the highest quality of care to be delivered to even the most remote areas of the Commonwealth. The RP-7 robot enables remote delivery of health care and they have currently deployed a robot to 12 hospitals throughout Kentucky. He stated that the quality of interaction between the referring physician, patient, and UofL specialists at the home base is amazing. Dr. Cook explained that one of the instrumental concerns for the veterans nursing homes was the lack of access to psychiatric care so they have added it. Dr. Cook added that the next step will be to work with the KDVA to determine which wireless option best suits their needs and that UofL has planned to approve up to \$50,000 of their grant to provide the wireless capacity. Co-Chair Pullin thanked him for their generosity. Dr. Cook concluded his presentation and said that the partnership between KDVA and UofL will make Kentucky the national leader in providing quality health care services to our veterans and that UofL is pleased to help provide leading edge care to those who have served our nation.

There being no other business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON SENIORS, VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION Minutes of the 4th Meeting of the 2008 Interim October 2, 2008

The 4th meeting of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection was held on Thursday, October 2, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Denise Harper Angel, Vernie McGaha, Joey Pendleton, Dick Roeding, Dan Seum, and Katie Stine; Representatives Sheldon E. Baugh, Tom Burch, Dwight D. Butler, Mike Cherry, Larry Clark, Tim Couch, Ron Crimm, Bill Farmer, David Floyd, Jeff Greer, Jimmie Lee, Tim Moore, Rick G. Nelson, Fred Nesler, Steve Riggs, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Charles Siler, Dottie Sims, John Tilley, and Alecia Webb-Edgington.

Guests: Trey Grayson, Secretary of State; Major General Edward W. Tonini, Adjutant General, Kentucky Department of Military Affairs; Thomas L. Preston, Executive Director, Kentucky Office of Homeland Security.

LRC Staff: Erica Warren, CSA, Mustapha Jammeh, Andrew Coyle, and Rhonda Schierer.

Co-Chair Tori asked committee members to review minutes from the September committee meeting for approval, which were approved by unanimous voice vote upon a motion and a second.

Co-Chair Tori welcomed members and called on Rep. Siler to read a resolution for a fallen soldier, Sergeant David Keith Cooper, who lost his life in the global war on terrorism. She asked the committee to stand in a moment of silence in honor of the fallen soldier. The resolution was unanimously adopted by voice vote.

Co-Chair Tori welcomed Secretary of State, Trey Grayson, to the meeting. Sec. Grayson discussed voting programs for military and overseas voters for the 2008 general election. Sec. Grayson briefed the committee on the Federal Voting Assistance Program (FVAP); the special federal voter registration and request for absentee ballot form (FPCA form); the special federal write-in absentee ballot (FWAB) for federal races only; and the 2006 general election data compiled from post-election reports. He discussed delivery options for absentee ballots, including U.S. mail, secure faxing, or secure email. Secretary Grayson concluded with a discussion on the state board of elections (SBE) website tools for military, their dependents, and overseas voters.

Co-Chair Pullin asked about the Voting in Honor of a Veteran Program (VHVP) and what counties are not set up for the VHVP program. Sec. Grayson stated that 4 counties were not participating in FVAP and he would send that information to committee members. He stated that the VHVP program was designed 2 years ago and that it encourages voting by reminding citizens that it is a right soldiers fight to uphold.

Rep. Farmer asked how a county clerk knows when they have an emailed absentee ballot request. Sec. Grayson stated that the county clerks offices are asked to go online several times a day to look for requests.

Sen. Gibson asked how long absentee ballots are kept at the county clerk's office. Sec. Grayson stated that they are kept for about 2 years.

Rep. Rudy expressed his concern with the FWAB as voters may not realize that they are denied their vote for state and local races. Sec. Grayson stated that a write-in should be viewed as a last resort and it is not extended to state and local races for concerns of voter fraud.

Co-Chair Tori called on Major General Edward W. Tonini and Col. (Ret.) Mike Jones, Executive Director, Kentucky Department of Military Affairs to give an update on the KY Department of Military Affairs. Gen. Tonini also introduced Maj. Gen. (Ret.) Steve Collins, Director of the Bluegrass Station Effort, Rick Flynn, Budget Analyst, Military Affairs, and John Heltzel, Director of Emergency Management in Kentucky. Gen. Tonini stated that there has been a 92% reduction of violence in Iraq and spoke on the bravery and dedication of all troops and specifically the 450 KY soldiers of the 201st who serve in Afghanistan to clear roads of landmines. He added that out of 450, 38 soldiers have received the Purple Heart awards.

Gen. Tonini gave a PowerPoint presentation on the Kentucky Guard in action in Iraq and Afghanistan; hurricane support in Gustav and Ike; and current Kentucky National Guard (KYNG) personnel deployed.

Gen. Tonini then spoke on the KY Yellow Ribbon Program and gave specifics of the before, during, and after program procedures and trainings for soldiers and their families. Gen. Tonini stated that although they rely heavily on volunteers to run the program they now have full-time federally paid individuals who manage the program.

Gen. Tonini briefed the committee on the Military Family Assistance Trust Fund; stating that it is a safety net of last resort for Kentucky's military families. He stated that the balance of the Trust Fund as of June 30, 2008, was \$520,660 and that the Board's next meeting is scheduled for October 15th.

Gen. Tonini stated that the Northern Kentucky Readiness Center site has been selected in Boone County and construction is to begin October 1, 2010.

Gen. Tonini gave an update on the Armed Forces Reserve Centers. The Paducah Airport site is 80% complete with a final inspection scheduled for mid-December 2008; and the Bluegrass Army Depot site is 20% complete with final completion estimated for May 2009.

Gen. Tonini stated that under the KYNG Tuition Assistance Program; tuition is paid up to or equal to the in-state "full- or part-time" tuition rate in support of a member of the KYNG to attend an in-state public or private postsecondary educational institution. He added that the FY 09 budget is \$4,744,500 with \$2,738,051 obligated to date which includes only the fall semester. He stated that they could possibly be out of money for FY 10.

Gen. Tonini stated that the Bluegrass Challenge program was established in 1999 and has a wonderful track record for getting people their GED's and getting them into productive service.

Rep. Webb-Edgington asked about the current FEMA relief for the recent windstorm in Kentucky and the current status. John Heltzel, Director of Emergency Management, stated they closed out with FEMA and have documented with them \$17.1 million in damages. He added that all counties that declared emergencies met the requirement except for Hardin and LaRue. Rep. Webb-Edgington asked when uniform soldiers were added to assist with the program and who coordinated them in their efforts. Mr. Heltzel stated that this year was the first time and they felt training guardsmen would be the fastest way to assist people. The guardsmen assisted in paperwork for damage assessment and they worked as guard teams with the local emergency manager in conjunction with the County Judge Executive.

Sen. Roeding asked about the state threshold for FEMA relief. Mr. Heltzel stated that the state threshold for public assistance in Kentucky is \$5,011,000.

Co-Chair Tori asked how many guardsmen have lost their lives in roadside bombs. Gen. Tonini stated that there have been 16 national guardsmen that have died in combat in Afghanistan and Iraq. He stated that he did not know how many have died specifically from roadside bombs but would provide that information.

Co-Chair Tori introduced Thomas L. Preston, Executive Director, KY Office of Homeland Security (KOHS) and asked him to give an update on KOHS. Mr. Preston gave a PowerPoint presentation on KOHS missions. Mr. Preston discussed the responsibilities to include: counter-terrorism assessments and preparedness, grant management, public information/education, intelligence analysis support, community readiness, and first responder training and support. Mr. Preston stated that other directions and tasks of the KOHS included: fusion center operations and coordination with essential partners, communications interoper-

ability, cooperative ventures with federal and state agencies and first responders, critical infrastructure issues involving the DHS, and multiple administrative responsibilities including verification of equipment purchases and recipient capabilities for KOHS funded projects. Mr. Preston discussed the Buffer Zone Protection Program and stated that it assesses certain critical infrastructure and key resource sites in KY.

Mr. Preston stated that the KOHS only administers flow through grants such as the Urban Areas Security Initiative, Emergency Management Performance Grant, and Metropolitan Medical Response System. He stated that on one time only grants, the largest part of the Public Safety Interoperable Communications goes to Kentucky State Police for badly needed communication towers and related equipment. Mr. Preston stated that KOHS received 244 applications from 95 counties which totaled nearly \$66 million and KOHS was able to provide partial funding to 84 counties. Co-Chair Pullin asked Mr. Preston if she could get a list of the grants awarded by KOHS for the past year by county. Mr. Preston stated that he would get the list to her.

Rep. Webb-Edgington expressed her concern and reservation in regards to the fact that there were no homeland dollars awarded to state agencies as we currently have 4 areas that are currently certified by the FBI which have bomb squad authority in Louisville, Lexington, Owensboro, and the KY State Police and she felt it would benefit our state to continue to fund these instead of new agencies looking to build additional bomb squads. Mr. Preston stated they will not make any awards unless a new agency is certified by the FBI and at this point there has been no further certification.

Sen. Roeding asked about the grant process and stated that in the past first responders could only request communications equipment. He asked if this focus has changed and will there be other things that can be requested besides that type of equipment. Mr. Preston stated that every local government and local agency has a list of what is available and what can be requested from the KOHS and in addition to that they are going to increase the number of seminars to help improve grant applications and grant requests. He stated that there is a wide range of items that can be purchased. Sen. Roeding asked how the Fusion Center is being staffed and if Mr. Preston could explain the partnership between the Fusion Center staff and the FBI. Mr. Preston stated that the Fusion Center has Transportation Department employees monitoring very specific areas using 450 cameras on highways and bridges.

Sen. McGaha asked what method the KOHS is using to determine grant funding. Mr. Preston stated that all grants are reviewed first by an indepen-

dent volunteer group of professionals for consideration and the KOHS is currently looking at revising the current numerical system in place. Sen. McGaha asked how many FBI agents are stationed at the Fusion Center. Mr. Preston stated that there is 1 FBI full-time Intelligence Analyst. Mr. McGaha asked if the 19 employees at the Fusion Center included both merit and non-merit positions. Mr. Preston said yes.

Co-Chair Tori thanked Mr. Preston for his presentation and with there being no further business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 2nd Meeting of the 2008 Interim September 24, 2008

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, September 24, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Damon Thayer, Co-chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins, Jr., Julian Carroll, Carroll Gibson, Dan Kelly, and Ed Worley; Representatives Eddie Ballard, Sheldon Baugh, Johnny Bell, Dwight Butler, Tim Couch, Will Coursey, Tim Firkins, Joseph Fischer, Danny Ford, Jim Glenn, Derrick Graham, Mike Harmon, Melvin Henley, Jimmy Higdon, Jimmie Lee, Mary Lou Marzian, Lonnie Napier, Sannie Overly, Tanya Pullin, Tom Riner, Carl Rollins II, John Will Stacy, Greg Stumbo, Tommy Thompson, John Tilley, Jim Wayne, Alecia Webb-Edgington.

Guests: Sandy Gruzesky, Kentucky Division of Water; Jeff Eger and Jack Bender, Sanitation District No. 1 of Northern Kentucky; Bob Miller and John Cole, city of Ryland Heights, KY; Harold Parks, city of Fairview, KY; Timothy Longmeyer, Fred Nelson, and Joe Cowles - Personnel Cabinet.

LRC Staff: Joyce Crofts, Brad Gross, Alisha Miller, Karen Powell, Greg Woosley, and Peggy Sciantarelli.

Discussion of storm water fees was first on the agenda. Senator Thayer said he represents two unincorporated cities in northern Kentucky (Ryland Heights and Fairview in Kenton County) that are required to pay storm water fees—sometimes referred to as a "rain tax"—without receiving the services that other, more suburban areas receive. He went on to say that he introduced a bill in the 2008 regular session (SB 229) to exempt persons in areas not served by a sanitary system from the storm water fees charged by that system. The legislation generated some controversy, and he

promised those on both sides an opportunity to discuss the issue with the State Government Committee.

The first speakers were Bob Miller, Mayor of Ryland Heights (Kenton County); John Cole, city commissioner, Ryland Heights; and Harold Parks, Mayor of Fairview, (Kenton County). Mayor Miller and Mr. Cole provided the Committee with a packet of 2003 correspondence containing letters from James D. Giattina, U. S. Environmental Protection Agency (EPA); Darren Eyre, Center Line Engineering & Surveying; John Lyons, Sanitation District No. 1; U. S. Senator Jim Bunning; and several items of correspondence generated by Mayor Miller.

Mayor Miller said that he and Mr. Cole are appearing today in order to seek justice for the residents of Ryland Heights, who feel that the “rain tax” is being unfairly imposed on them. Mr. Cole read a prepared statement explaining the city’s position that it should not be subject to the fees, based on the fact that the city does not own or operate a municipal separate storm sewer (MS4) system. He noted that the city has been seeking exemption since 2003. In summary, he said that Sanitation District No. 1 contends that ditches alongside the city’s state and county roads are considered storm water systems. Neither Mark Mitchell of the EPA nor Johnny Gonzales of the Kentucky Department of Water could produce paperwork in which the EPA stated that the ditch lines are or are not considered storm water drains. Ryland Heights is a sixth class city with a population of approximately 800. Its residents are not hooked up to a storm sewer system but are paying the same fees as those in the large cities who actually receive services in return for their money. The relief that Ryland Heights is seeking is that either the Division of Water should redraw the boundaries of the storm water service area to exclude Ryland Heights, or that legislation should be passed in 2009 to exempt the city’s residents from paying the fees.

Mayor Parks said that the city of Fairview had never signed an agreement with Sanitation District No. 1 and does not have any storm sewer drains. He referred to a quarterly bill of \$231.99 in storm water fees that had been received by a small church in Fairview and stressed that it is a hardship for Fairview’s citizens—many of whom are elderly—to pay the fees, particularly when no storm sewer services are received in return. He showed the Committee a small leaflet, “Three Steps to Cleaner Water,” and said the city was told that their payments are used to fund this educational material, even though the city already sends out this type of literature.

Mayor Miller noted that Ryland Heights had originally signed an agreement under threat of being fined approximately \$25,000. He said the city felt it had no recourse but to comply, but with the option of opting out or being

exempted at a later date. Mayor Parks said he has evidence that residents of Fairview who refused or were unable to pay the fee have been threatened with having their water service shut off, though this has been denied by Mr. Eger. He contended that another Fairview resident was threatened with having a lien placed on his property. He said he appreciates being heard today and hopes that Senator Thayer’s legislation will again be considered.

The next speakers were Jeff Eger, General Manager of Sanitation District No. 1, and Jack Bender, the District’s outside counsel from the firm of Greenebaum Doll & McDonald. They provided the Committee with copies of Mr. Bender’s February 2008 conference presentation entitled “Storm Water Planning and Enforcement.”

By way of background, Mr. Eger explained that Sanitation District No. 1 is a special district chartered under KRS Chapter 220. He went on to say that in 1994 the statute was amended to allow all local governments in northern Kentucky to turn over their sanitary sewer systems to the District, which all did except the city of Florence. In 1998, the local governments asked the General Assembly to amend Chapter 220 to allow the Sanitation District to take over responsibility for the storm water systems throughout northern Kentucky. As the District was implementing the takeover of ownership and maintenance, the EPA promulgated the Phase II regulations and named all three counties and all of the local governments in northern Kentucky, with the exception of Walton, as having to comply with the unfunded federal mandate to develop a storm water Phase II program. Sanitation District No. 1 does not own any storm sewer system but does own the sanitary sewage systems, both separate and combined, in the river city.

Mr. Bender discussed storm water planning and enforcement in general, noting that the requirements for storm water control that are being imposed on municipalities in Kentucky are growing and evolving. He went on to say that Kentucky has approximately 100 Phase II communities and two Phase I communities—Louisville and Lexington—that are subject to EPA storm water program requirements. The ultimate goal of these MS4 programs is to require municipalities to implement best management practices. The goal of the best management practices is to ensure that storm water runoff coming from urban areas through the MS4 systems—which can include road ditches, retention basins, and culverts—meets stringent in-stream water quality standards. The trend across the country today is that the requirements imposed under the MS4 programs will become more and more stringent. All Phase I and Phase II MS4 communities are required to implement a comprehensive storm water quality management

program. Cities have no choice but to implement these programs throughout their jurisdictional area and then find the means to fund them.

Mr. Bender said that there will always be people who believe they are utilizing less of a service than someone else. He went on to say that part of the problem with respect to the fee systems is how to differentiate—how to establish who benefits most from a construction permit program in one part of a county that improves water quality there, if that is an area where more construction takes place. There is some unfairness in this system, but municipalities need the flexibility to comply with the unfunded mandates of these programs and apply the programs across industrial, commercial, residential, and even rural areas as required by EPA.

Senator Thayer commented on the randomness of the compliance area boundaries and questioned how they were decided. Mr. Eger said that could be answered better by the Energy and Environment Cabinet but that he believes the boundaries were based on EPA guideline standards of population density. He said the boundaries were drawn according to watersheds, so that all of the waters inside the boundaries flow within the affected populated area. He then reviewed PowerPoint slides showing maps of the northern Kentucky storm water permit compliance area, watersheds, and designated storm water outfalls, plus relevant aerial and land photos.

Mr. Eger noted that the sanitation districts have recently negotiated a consent decree, which is very unique, that employs a comprehensive, watershed-based approach. He went on to say that in the northern Kentucky regional Phase II program there are more than 8,000 storm water outfalls which the District is required to monitor on a regular basis—under the KPDES (Kentucky Pollutant Discharge Elimination System) permit—and that the storm water outfalls are well outside the sanitary sewer areas. He explained that an outfall is an area where a storm water system is discharging into a culvert, stream, creek, or pond.

Senator Thayer asked Mr. Eger to comment on the fees that are being charged to persons living in unincorporated areas that do not receive services from the sanitary sewer system. Mr. Eger said it is his responsibility to implement the program according to the established boundaries and that the law requires him to charge an equal, level fee throughout the service area. He added that construction oversight is also the District’s responsibility. Mr. Eger explained that the residential fee is the same for everyone in the service area—about \$4.12/month. The nonresidential fee is a factor of every 2,600 square feet of impervious areas such as roof space, driveways, and parking lots. Senator Thayer asked Mr. Eger whether it is his opinion that the District cannot voluntarily exempt areas that do

not receive storm water service. Mr. Eger said he does not believe they can be exempted but said, too, that he is also not sure that the District is not providing them a service. He added that although Fairview has challenged whether it has an obligation, its residents do reside in the service area.

Representative Harmon asked about the fee structure relative to roads and driveways, for example, with pervious rather than impervious surfaces. Mr. Eger said that nonresidential customers implementing such best practices can apply for water quantity or water quality credits. In certain instances they might also be eligible for potential grant funding from the District.

Representative Henley asked to whom fees collected by the District are being expended, and for what purpose. Mr. Eger said those funds are used for improvement of the storm water infrastructure in northern Kentucky. Representative Henley asked whether the District would have to pay if the Transportation Cabinet or a county billed the District for maintenance of roadside ditches within the service area. Mr. Eger said no—that the ditches are not the responsibility of the District, that the Transportation Cabinet has its own permit to comply with, and that the District does not receive any money from the Transportation Cabinet.

Representative Webb-Edgington asked whether state law or regulation would allow an exemption for churches or schools. Mr. Bender said that the regulations would not exempt them from the program requirements within an MS4 area. He said that any facility—whether state, federal, or a church—is required to comply. The issue of whether or not a church or somebody else would be exempt from the storm water fee is strictly a local government issue. Responding to another question from Representative Webb-Edgington, he said that the definition of “municipal separate storm sewer system” includes road ditches and culverts and not just traditional underground storm sewers. He explained that storm water might fall in Ft. Wright but end up in Covington, for example. For that reason, the District is charged with managing the storm water. He added that it is difficult for one municipality to manage the storm water coming from another municipality, whether coming from a ditch, creek, or a pipe system.

Representative Rollins asked whether the District would consider funding a proposal from a county government for an improvement that would prevent creek erosion. Mr. Eger said that the issue is complicated. He went on to say that when the Sanitation District became the regional storm water utility in 1998, as it began mapping the entire storm water system in northern Kentucky, the unfunded mandates came down from EPA to require the District to develop programs for public education and in-

volvement, illicit discharge detection and elimination, construction management, and pollution prevention (good house-keeping). The District had to develop and is now implementing a program for all of the municipalities, including the three county governments. Funds collected are used for implementation of that program. Under an interlocal agreement with each local government, the District agreed to fund—up to 50 percent—any upgrade of the storm water systems until the District assumed ownership. The District is now in the process of revising the interlocal agreement and by this time next year should have full ownership responsibility of the storm water system. When finalized, the District will implement the necessary controls, funded entirely by the storm water fees, to remedy situations such as creek erosion.

Representative Rollins asked whether the District works with city and county governments as they develop regulations to control storm water. Mr. Eger said yes—that the District is also working with planning and zoning agencies to revise rules and regulations for subdivisions and commercial developments. The District also has the ability to implement its own regulations relating to detention. From the audience, Mayor Parks said that Fairview officials have asked the District what the city should do in order to be relieved of the fees but that the District has not given the city any direction. Mr. Eger pointed out that granting Ryland Heights or Fairview an exemption may not exempt them from the federal requirement to implement the Phase II program. He went on to say that the District's agreement with Ryland Heights is to implement the program on the city's behalf. If nonsanitary customers were to be exempted from the fee, the interlocal agreement says that if the District cannot charge the fee to implement the program, the local government would then be responsible unless released from compliance with the Phase II EPA regulations through an agreement with the Kentucky Division of Water.

Representative Stumbo asked whether the statute allows latitude to distinguish between older residences and those established after land development led to a problem with storm water runoff. He said it seems there should be equity involved in levying the fees—for example, charge a higher fee for the post-development households and exempt the older households. Mr. Eger said that would not be allowed under the statute. He pointed out that it is not always development that causes impairment. It could be the result of bad septic systems, agricultural runoff, animal pollution, etc. Representative Stumbo noted that the Sanitation District was created because northern Kentucky was a high development area. He said it seems to him that commercial developers should bear more responsibility because, technically, they created the situation. He

asked whether other states allow a tiering of fees for households based on age of the residence—adding that this idea might be worth exploring. Mr. Eger said he is not aware of any. He went on to say that the District uses GIS imaging system mapping to determine impervious areas. To do it for each residence would be very costly, so the decision was to charge all households the same fee of \$4.12, which is within the national average. A recent national study by the engineering firm Black & Veatch indicates that storm water fees range from 70 cents/house to \$70.00/house per month. Mr. Eger also noted that, for the most part, the impaired streams in the District's service area are in rural areas.

Representative Wayne said that in the past he has introduced legislation several times to permit local governments to impose impact fees on new development, and each time the home builders and realtors lobbied to defeat the legislation. He said he believes this type of legislation would be a partial remedy, because any new residential or commercial development would then be required by the developer to pay to the District a certain amount of up-front money. That would, in turn, keep fees lower for existing homeowners and businesses. Mr. Eger said that the District charges a "capacity connection" fee for new development and that this fee has increased by 50 percent since 1994. He said this is, in essence, a kind of impact fee.

Representative Fischer asked what percentage of the storm water fees are derived from areas not served by storm sewers. Mr. Eger said he believes it is about two or three percent of the annual fee received from the nonsanitary sewer customers. Representative Fischer said, then, that if those areas were exempt from the fees, it would be necessary to raise other customers' fees by that same percentage. Mr. Eger said that is correct.

Senator Thayer thanked Mr. Eger and Mr. Bender. The next speaker was Sandy Gruzesky, Director of the Division of Water, Energy and Environment Cabinet. Ms. Gruzesky provided the Committee with a 3-page handout entitled "Population for Storm Water Entities as Defined by the 2000 Census" [Source: Federal Register]. It lists the Kentucky communities identified by the federal government that are required to be covered under the Phase II storm water program.

Ms. Gruzesky gave a PowerPoint presentation entitled "Storm Water MS4 Permitting Issues." She noted that Phase II of the program went into effect in 2003 and Phase I in 1992. She spoke at length on the following topics: history of the storm water program; purpose of storm water regulation; impervious cover; watershed issues; storm water permits; definition of MS4 systems; MS4 storm water categories; northern Kentucky impaired rivers/streams/lakes; minimum controls for Phase II storm water programs; timeline for Phase II MS4 permit reissuance;

and the Lexington-Fayette MS4 program and consent decree. (A copy of Ms. Gruzesky's presentation is on file with LRC's State Government Committee staff.)

Ms. Gruzesky explained that the storm water fees are funding the following activities required of Sanitation District No. 1: public education and outreach; public involvement and participation; control of construction storm water runoff and illicit discharge, including inspection and enforcement; post-construction storm water management; and pollution prevention.

Representative Webb-Edgington asked about the quality of water in urban areas compared to less developed areas of the state where there are straight lines running into streams. Ms. Gruzesky said that in parts of the state where straight pipes are an issue—particularly eastern Kentucky—waters are also impaired. She said that urban storm water involves a different kind of pollution but that there is impairment for a variety of reasons statewide. Representative Webb-Edgington asked whether there are any taxes or fees, other than for enforcement, that are imposed on people in areas that run straight pipes. Ms. Gruzesky said she is not aware of any.

Representative Henley asked whether he should contact the Division of Water when he receives a complaint about septic system runoff that cannot be addressed by the local health department. Ms. Gruzesky said yes—that the Division receives that type of calls frequently and will send an inspector to investigate and follow up. Representative Henley asked whether MS4 systems are responsible for post-construction management of pipes and ditches, for example. Ms. Gruzesky said yes. She said that sedimentation structures occasionally must be cleaned out in order to remain effective. Representative Henley asked whether communities could submit a bill for cleanup if a road ditch maintained by a county or the state becomes full of sediment. Ms. Gruzesky said that the state of Kentucky has its own permit and is required to do the cleanup in urbanized areas for state-owned roads. Representative Henley said it seems, then, that there is a duplication of services and that fees should be reduced for the small unincorporated cities that do not operate a storm water system, since all of their infrastructure is already being maintained by other parties that pay for the maintenance. Ms. Gruzesky pointed out that the storm water is coming from private property. She said the Transportation Cabinet will clean out the ditches but that the material in the ditches came from parking lots and other impervious areas.

Representative Higdon said that everyone agrees on the need for clean water and the other goals of the Clean Water Act. He disagreed with the "one size fits all" approach taken by the sanitation district and suggested looking for a solution whereby the folks in the small cit-

ies without storm water systems would be charged lesser fees than those in the larger urban areas. Discussion concluded, and Senator Thayer thanked all the speakers.

Discussion of the 2009 Kentucky Employees Health Plan (KEHP) was next on the agenda. Guest speakers from the Personnel Cabinet were Tim Longmeyer, Deputy Secretary; Fred Nelson, Commissioner of the Department of Employee Insurance; and Joe Cowles, General Counsel for the Department of Employee Insurance. The meeting materials included the Cabinet's "Benefits Selection Guide"; copies of Mr. Longmeyer's and Mr. Nelson's PowerPoint presentation, "Briefing on 2009 Rates and Benefits"; and a letter to the General Assembly from Crystal Pryor, the Cabinet's Chief of Legislative Affairs.

Mr. Longmeyer discussed the challenges faced by the Cabinet when developing the health plan for 2009. He said that health plan inflation continues. The 2008 employee contributions were artificially lowered, which created a shortfall in overall trust funds that could be used in developing the new plan year benefits. The benefits had not changed in years, and the highly used plans lacked diversity. About 98 percent of participants chose two of the four plans that were offered. This created consumer complacency, and most were not really aware of their benefits or whether they were enrolled in a plan that best met their needs. There was no meaningful wellness plan, though not for lack of trying. Many wellness efforts had been made, but there was little utilization. There was also little utilization of the HRA (health reimbursement account) plan—otherwise known a consumer-driven plan—which many companies, corporate entities, and states are moving toward in order to increase the level of consumer awareness.

Mr. Longmeyer said that those challenges were met with certain principles in mind. The goal was to provide uniform coverage across the Commonwealth; encourage wellness and healthy lifestyles; provide preventive care at little or no cost; improve chronic disease care; educate members about plans appropriate to their health needs; provide plan alternatives accessible to retirees; provide a quality PPO option; provide an improved subsidy for family and dependent coverage; and provide plans with unlimited lifetime maximums. He said that due to the great effort of the Department of Employee Insurance—and after many meetings with vendors, experts, stakeholders, employees, the Group Health Insurance Board, and the best practices Committee chaired by Secretary Jonathan Miller—he believes those challenges have been met and the guiding principles have been maintained.

Mr. Nelson reviewed details of the four plans being offered for 2009: Commonwealth Standard PPO, Commonwealth Capitol Choice, Commonwealth

Optimum PPO, and Commonwealth Maximum Choice. He discussed the new Capitol Choice plan, which is a “hybrid” plan that combines features of a modern, consumer-driven plan with features of a traditional PPO plan. He went on to explain that the plan features a single co-payment of \$100 for all in-network hospitalizations. Another unique feature is a \$500 up-front benefit allowance per family member, which would provide 100 percent coverage for certain in-network services before payment of the deductible.

Mr. Nelson went on to explain that the new Commonwealth Optimum PPO plan merges features of the 2008 Commonwealth Enhanced and Commonwealth Premier plans. Commonwealth Maximum Choice is a consumer-driven plan that includes a health reimbursement account (HRA) and will offer the same benefits as 2008’s Commonwealth Select plan. The Commonwealth Standard PPO plan will offer the same benefits as the 2008 Commonwealth Essential plan. Mr. Nelson pointed out that 40 percent of KEHP members have annual pharmacy and medical expenses of \$1,000 or less. Commonwealth Maximum Choice, which includes \$1,000 in an HRA account for single coverage, would totally cover costs for members choosing single coverage under that plan. Twenty-eight percent of plan members have annual medical and pharmacy expenses of \$500 or less; the new Capitol Choice hybrid plan would be ideal for them.

Mr. Nelson said that some pharmacy co-payments will increase slightly in 2009. He noted that at the beginning of 2006, the member cost share for overall pharmacy benefits was 19 percent, and KEHP paid 81 percent. Since 2006, because of medical and pharmacy inflation, the plan has been picking up a higher percentage of that cost. The 2009 adjustment in pharmacy co-pays returns members to the 19 percent share that they were paying at the beginning of 2006. Mr. Nelson also briefly touched on the pharmacy mail-order benefit, the specialty drug management program, the addition of some medications to the step therapy and prior authorization programs, the 75-prescription reduced co-pay benefit, the VirginHealth Miles walking program, and the improved disease management program. He noted that KEHP currently has a little more than 150,000 employee and retiree members; the addition of dependents raises the total membership to approximately 260,000.

Mr. Nelson reviewed the non-smoker premium rates for 2009. He said that the rate-setting process faced daunting challenges because of the overall budget situation and medical inflation, and because the previous administration had used \$50 million from the trust fund to buy down premiums. He said that, with the exception of the Optimum PPO plan, the other three plans being offered will have a zero employee contribution

for single coverage. The single coverage monthly premium for the Optimum PPO plan will be only \$5 more than the premium for 2008’s Commonwealth Premier. Premiums for comparable dependent coverage will increase by five percent or less, compared to an increase of six percent for dependent coverage in 2008. Concluding his presentation, Mr. Nelson said that the 2008 premium surcharge for smokers is about \$16 for single coverage, or \$32 for dependent coverage; the 2009 surcharge will increase to about \$21 for single coverage, or \$42 for dependent coverage.

Representative Bell, citing personal experience, expressed dissatisfaction with the difficult process for obtaining KEHP approval to cover certain prescribed medications in lieu of generic or alternative drugs. He said he and a lot of his constituents feel that the current policy is not working. Mr. Nelson said that generally the plan follows a doctor’s recommendation, although prior authorization and step therapy programs may require an individual to first substitute a generic drug. Representative Bell said he understands that. He added that his doctor submitted the required information to get his prescription approved but that it was a fruitless effort. Mr. Nelson said he believes that in most situations the pharmacy benefit manager will agree to what a doctor prescribes if he can justify its use. He said the Department would be happy to assist anyone who is having a problem in this regard, and Mr. Longmeyer said that they will follow up with Representative Bell.

Senator Thayer acknowledged Personnel Cabinet staffer Charles Wells in the audience and advised the Committee that Mr. Wells is a designated contact person to help members of the General Assembly who have questions about the health plan.

Representative Pullin commended the Cabinet for its hard work in developing the health plan. She asked what can be done to help persons who believe they have correctly enrolled on line, only to find out after open enrollment ends that they did not get enrolled. Mr. Nelson said that this year, for the first time in many years, there will be a mandatory active enrollment. He went on to say that the Department is aware of the potential for problems and is committed to being as flexible and liberal as possible. Grace periods will be allowed in order to assure that people get enrolled. After the first of the year, it will probably be necessary for employees to file a grievance if they failed to complete the enrollment process, but it is the Department’s goal to be liberal in granting the grievances, which has not necessarily been the case in the past. Representative Pullin asked whether the Department will notify employees who have neglected to enroll. Mr. Nelson said that reports will be generated to current members who did not enroll online, and their names and social security numbers

will be sent to the insurance coordinators for agencies and school systems so that they can contact those persons and assist them with enrollment. Mr. Longmeyer said that the Cabinet is sending out letters and e-mails to employees and will try to be as liberal as possible in administering open enrollment.

Senator Carroll said he thinks the Cabinet has done an excellent job. He suggested that they consider having an automatic “default enrollment” for employees who are currently in the health plan but fail to enroll for 2009. Mr. Nelson said that they have considered that but that it will not be possible under the new computer system KHRIS (Kentucky Human Resource Information System) that goes into effect January 1. Senator Carroll said that default paper enrollment perhaps could be completed by insurance coordinators for employees who neglect to enroll or respond when notified that they are not enrolled. Mr. Nelson said that they will give some thought to that idea.

Representative Stacy asked how the amount of the smoker surcharge is determined. Mr. Longmeyer said that there is a limitation of up to 20 percent of overall premium, according to HIPPA (Health Insurance Portability and Accountability Act) regulation. He went on to say that 14 percent of members currently report that they smoke, while it is known that the actual number of smokers in the Commonwealth is closer to 28 or 30 percent. It is apparent that quite a few are not reporting that they smoke. The surcharge is an important deterrent and encourages people to enter smoking cessation programs. The 2009 surcharge reflects an increase of 25 percent, which represents an overall increase of about 33 since the surcharge was first put in place a few years ago. Kentucky is one of only about a half dozen states that have a smoking surcharge. The 2009 \$42 smoker surcharge for dependent coverage is believed to be the highest in the nation. The goal was to increase it in such a way as not to encourage people to falsely open enroll but still serve as an incentive for smoking cessation.

Representative Firkins also complimented the Cabinet. He said that he had not been able to get approval for a medication because of the step therapy requirements and had finally agreed to use the drug okayed by the pharmacy benefit manager. He encouraged the Cabinet to look into this problem and suggested it may be more prevalent than thought. Mr. Nelson said they will be glad to intercede on behalf of plan members who are experiencing problems.

Representative Riner asked whether there are incentives for people to answer the smoker question honestly. Mr. Longmeyer said the main incentive is that giving a false answer is fraud. He went on to say that there has not been an effort to prosecute so far. Instead, the 2009 plan will include an option for smokers who

quit or who complete a smoking session program to qualify for the nonsmoker rate during the plan year and not just at open enrollment. The Cabinet is also looking at more aggressive methods such as potential prosecution or requiring affidavits but hopes that the option to change smoker status during the plan year will encourage people to get involved in the smoking cessation program.

Representative Graham said he hopes the Department will emphasize in its publicity that the HRA plan is still being offered and that the unused funds can be rolled over from one plan year to the next. Mr. Nelson noted that the HRA and its rollover benefit are discussed in the “Benefits Selection Guide.” Subsequent discussion touched on the October benefit fairs and the 90-day prescription mail-order benefit.

Representative Cherry asked the amount of the employer contribution for 2009 for employees who waive coverage. Mr. Longmeyer said it will be \$175—the same as 2008.

The health insurance discussion concluded and Senator Thayer thanked the speakers. He then read the subcommittee report for the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, which met on September 23. The report was approved without objection, upon motion by Representative Firkins.

Business concluded, and the meeting was adjourned at 3:25 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs Minutes of the 1st Meeting of the 2008 Interim September 23, 2008

The 1st meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, September 23, 2008, 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; Senators Carroll Gibson, Ernie Harris, Alice Forgy Kerr, and Elizabeth Tori; Representatives Kevin D. Bratcher, Mike Cherry, Larry Clark, Tim Firkins, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, John Will Stacy, Kathy W. Stein, and Greg Stumbo.

Guests: Trey Grayson, Secretary of State; Sarah Ball Johnson, State Board of Elections; Sarah Jackson, Emily Dennis, and Rhonda Farmer, Kentucky Registry of Election Finance.

LRC Staff: Judy Fritz, Bill VanArsdall, and Terisa Roland.

First Senator Thayer announced four new members to the Task Force: Senators Ernie Harris, Johnny Ray Turner, and

Ed Worley.

Secretary of State Trey Grayson, and Sarah Ball Johnson, Executive Director of the State Board of Elections, gave updates on the 2008 Primary, and the distribution to the counties of the remaining Help America Vote Act (HAVA) funds.

Secretary Grayson spoke about the 2004 General Election as well as the 2008 General Election. He said the 2004 Primary was a history making primary. Secretary Grayson reported that there was record voter participation for the 2008 Primary. He noted that though the final numbers were not yet available, the turnout was approximately 32% or higher. He stated that he expects the same for the General Election in November. The other notable thing from the Primary was seven counties all phased out their older voting systems and replaced them with optical scanned balloting, similar to what Jefferson County has used for about twenty years. Secretary Grayson has a chart by county of voter turnout in member folders.

Representative Clark asked for his prediction for the upcoming primary for voter turnout. Secretary Grayson said it was a little early but he believed it would be a little higher than four years ago which was almost 65% statewide.

Representative Clark asked how many new registered voters was there were this year. Secretary Grayson said there are more democrats in raw numbers registering. He said over the past five to ten years, Republicans have been gaining ground, relatively speaking, over a period of time there were more Republicans than Democrats registering. That changed a couple of years ago to more Democrats registering.

Representative Bratcher mentioned the KYSOS website and stated how fascinating it is. He asked who designed this. Secretary Grayson gave credit to John Brown but said they are working to make this site more users friendly. Representative Bratcher asked if every single vote had a paper trail. Secretary Grayson said that is false. It can trace as voter verifiable – but there is not a “paper trial.” Secretary Grayson trusts this system that we currently use.

Secretary Grayson said the current numbers for mid September are 1,656,242 Democrats and 1,049,459 Republicans, and 188,598 others (can be broken down, but not on-line) for a total of 2,894,299. In 2004, there were about 2,794,000 overall voters. As of now there are already up about 100,000 registered voters and are up 37,000 from the primary.

Representative Stumbo asked about standard machines statewide and the possibility of this and the cost would be a savings to the state for an election. Secretary Grayson said the ability to have an internet connection does not matter, but accessibility for voters does matter. He said technically, they could all be the

same in the urban and rural areas. There would be some transitional issues. Year to year there may be some issues with the service they would receive. There is tension between state and local and training. There are currently three types of machines.

Sarah Ball Johnson discussed federal money. The next is an update on HAVA dollars. The current balance of HAVA dollars from the \$32 million there is \$19 million left counting the interest that is kept. The board committed to spending \$15.8 million of the remaining dollars on getting the money to the counties for reimbursement of voting machines, if they so purchased. There has been \$37 million reimbursed to the counties who have purchased new machines and met the MOA. Reimbursements are required by state law. That leaves \$12 million to pay out which leaves approximately \$7 million which is committed to voter education and for funding other mechanisms such as on-line voting for absenteeism. Another item that will be paid from the extra \$7 million is to move from main frame to web based. (Spread sheet for Voting Equipment and Update on HAVA Disbursements in folders.)

Senator Thayer asked when they anticipated counties to be reimbursed and the project completed. Ms. Johnson said the current MOA's run for the entire biennium. The Board of Elections is committed to the counties that if they don't spend the money in two years they will do another MOA to hold it for them. It will be New Year money every year with no deadline for it to be spent with the interest.

Secretary Grayson made an announcement to the members to let their constituents know that Kentucky is only one of a few of states that is doing a couple of things to help our military and oversees citizen's vote. This year as in 2004 and 2006 they are participating in a program that helps using the Department of Military secure email system that emails a secure voting ballot thus cutting the turnaround time in half. There are only six states that are doing this. He said the members gave them the ability to do this and thanked them for their help. They are also partnering with a non partisan group called the Overseas Vote Foundation which gives overseas citizens and military can fill out online a voter registration or absentee ballot request. There is a federal form for this. There are only five states that are doing this. They want this to be used as much as possible.

Chairman Thayer mentioned the handouts from Ms. Johnson and asked Secretary Grayson to comment on campaign contributions. He said they need more electronic filing and need one more report for disclosure. They need to pass the bill that would address this. A draft of this is in the fourth session. The committee has heard of it many times.

Chairman Thayer mentioned another

handout in the folder of an upcoming meeting of the Council on Governmental Ethics Laws which will be in Chicago later this year.

Business concluded, and the meeting was adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the Fourth Meeting of the 2008 Interim September 26, 2008

The fourth meeting of the Interim Joint Committee on Transportation was held on Friday, September 26, 2008, at 10:00 AM, at the RiverPark Center in Owensboro, Kentucky. Senator Brett Guthrie, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brett Guthrie, Co-Chair; Representative Hubert Collins, Co-Chair; Senators David E. Boswell, Bob Leeper, R.J. Palmer II, Dick Roeding, Richie Sanders Jr., Brandon Smith, and Gary Tapp; Representatives John A. Arnold Jr., Eddie Ballard, Larry Belcher, Jim DeCesare, Melvin B. Henley, Arnold Simpson, Ancel Smith, and Greg Stumbo. Non member legislators attending the meeting were: Senator Dorsey Ridley and Representatives Dwight Butler, Jim Glenn, Tommy Thompson, and Don Pasley.

Guests Appearing Before the Committee: Tish Correa-Osborne, Chair, and Jody Wassmer, President, Greater Owensboro Chamber of Commerce; Tom Watson, Mayor, City of Owensboro; Bruce Kunze, Commissioner, Daviess County Commissioner; Stephen Johnson, Owensboro Medical Health System; Nick Cambron, Chair, Chamber Leadership Initiatives for Northwestern Kentucky; and Mike Hancock, Chief of Staff and Ted Merryman, Chief District Engineer, District 2, Kentucky Transportation Cabinet.

LRC Staff: John Snyder, Jim Roberts, Brandon Smith, and Linda Hughes.

Ms. Tish Correa-Osborne, Chair, Greater Owensboro Chamber of Commerce's welcomed the Committee to Owensboro. She said that Owensboro is the third largest city within the state with its airport having the second largest runway in the state. She also emphasized that there is much room for growth citing the fact that Owensboro does not have a state university or an interstate within its boundaries.

Mayor Tom Watson, City of Owensboro, discussed the city's riverfront development efforts with the committee and presented a slideshow of a number of projects the city envisions developing in the future. One in particular project was a new hospital in which, Mayor Watson commented would be discussed more thoroughly later in the meeting.

Senator Smith commented on one

of the projects, a marina encompassing 200 boat slips. He said that there was a growing population of boaters and that there were very few marinas in the Owensboro's immediate area in which to purchase gasoline/diesel. He commended the city on its foresight in taking advantage of this growing population's needs.

The next person to offer testimony was Mr. Bruce Kunze, Daviess County Commissioner. Commissioner Kunze said that there are approximately 56,000 citizens within the city's limits and another 37,000 citizens just outside the city limits. There are 550 miles of county roads and 342 miles of state roads.

Commissioner Kunze stated there are five major projects that need fiscal support on the already tight Daviess County Fiscal Court budget. Those projects are:

The roundabout at KY 56 & KY 81. He said that fiscal court may need to consider funding a portion to complete the Worthington Road alignment if additional federal funding does not materialize.

Widen Southtown Blvd. to four lanes between Frederica and Carter Roads. This corridor is between a busy commercial district and Apollo High School, with proposed residential development involved. At the moment this project is totally dependent on state funding and the state's priority is to fund state projects that have federal matching monies.

Glover Cary Bridge renovation. This renovation is budgeted at \$2.6 million for 2010; however, new estimated cost is now \$8.2 million, including cleaning, painting, and deck work.

Extend Fairview Drive from dead-end at the Downs subdivision to Pleasant Valley Road (five miles). This should be a top priority for traffic flow between KY 54 and Pleasant Valley Road, especially with the new hospital construction.

Widen KY 54 from mile 4.5 to 8.0. Heavily traveled east-west route from Owensboro to Whiteville and east Daviess County.

Commissioner Kunze stated that Owensboro is currently developing a downtown comprehensive plan for future residential, commercial, and public development. This plan will include a new hotel, convention/multi-purpose center, as well as the possibility of an outdoor events center. The city is investing significant dollars into this planning process. He cautioned that one issue that must be addressed in this revitalization plan is traffic flow and traffic patterns. Second Street is currently a one-way westbound route that carries a heavy concentration of semi-truck traffic.

Jody Wassmer, President, Greater Owensboro Chamber of Commerce, commented on several projects that proposed transportation improvements for the Owensboro region. Those projects were: Interstate 69, Interstate 66, and

U.S. 60 East Bypass. Mr. Wassmer said that he believed that Kentucky's foresight to build parkways years ago paves the way for them to become interstate spurs. He said that these spurs allow counties touched by spurs to tell companies they are essentially on an Interstate, thus helping to bring industry into a county that does not actually have an interstate within its boundaries. He said that having an interest within 25 miles is very crucial in drawing industry to an area. And, research shows that on average a county's per capital income is 30 percent higher than a county that does not have an interstate.

Stephen Johnson, Owensboro Medical Health System, discussed the need for the U.S. 60 Bypass project in East Daviess County. He said that the Owensboro Medical Health System (OMHS) decided in 2007 to move forward with a \$350 million new hospital construction project along the proposed U.S. 60 bypass extension corridor. OMHS is the 22nd largest employer in the state which services nine Kentucky counties and two Indiana counties, with an annual payroll of approximately \$107 million.

Mr. Johnson said that OMHS is an international player in plant made pharmaceutical research and biotechnology using tobacco plants. Its cancer research program is a joint venture with the University of Louisville. And it is the owner of Kentucky BioProcessing, the world's only commercial bioprocessing facility of its kind in the world.

Mr. Johnson said that the nation's baby boomers are reshaping the nation's health care industry. He said that the over 65 population will nearly double today's population with six out of every ten managing more than one chronic condition. And one out of every four senior citizen will be diabetic. He said that by year 2030 baby boomer will account for more than twice as many hospital admissions as they do today and there will be over four million more visits to an emergency room.

Mr. Johnson said that OMHS Emergency Department is the most visited single emergency department in the state, with 66,000 visits annually. And without a question, the new facility is much needed in the area and thus the U.S. 60 Bypass extension plays a significant role in meeting Owensboro's daily as well as future health care needs.

Mr. Johnson said that the U.S. 60 Bypass extension will be the north-south four-lane corridor between I-64 and I-65. It will help ease the future traffic and safety concerns when OMHS has completed its 24/7/365 facility in 2012. He commented that he recently heard that Fort Knox is closely monitoring this bypass for future military and emergency management perspectives should natural disaster or a terrorist attack incapacitate bridges in Louisville and Evansville.

The last persons testifying before the committee were Mike Hancock, Chief

of Staff and Ted Merryman, Chief District Engineer, District 2, Kentucky Transportation Cabinet. Before their testimony Co-chairman Collins asked Mr. Hancock to briefly explain the controversy over the distribution of truck registration fees to counties under the revenue sharing provisions of KRS 47.020. This statute appropriates 30 percent of all commercial truck registration fees to be distributed equally among all 120 counties.

In August, counties were notified that their share of these funds were being reduced due to the passage of HB 535 of the 2006 Regular Session, which eliminated the 6,000 pound commercial vehicle plate and reduced the state fee for the 10,000 plate from \$24 to \$12.

Mr. Hancock stated that after meeting with LRC staff, the Cabinet had undertaken an in-depth review of the reasons for the reduced county share. According to the Cabinet review, the total county share declined \$7.6 million between FY 07 and FY 08, a reduction of \$63,329 per county. This reduction can be attributed to four factors:

IRP/Ad Valorem Issue – In FY 07, the Cabinet began collecting Ad Valorem taxes on International Registration Plan (IRP) vehicles, vehicles that travel in more than one state. The Ad Valorem collections were incorrectly included in the revenue sharing calculation in FY 07, resulting in a \$3 million overpayment to counties which was recouped this year at a cost of \$24,490 to each county (38.7 percent of total reduction).

A decline in IRP Registrations – Due to the economic downturn, IRP collections were down in FY 07. The total county share of this decline was \$2.15 million or \$17,920 per county (28.3 percent).

Commercial Vehicle Coding – The elimination of the 6,000 pound plate exposed a problem in that some non-commercial vehicles with 6,000 pound plates were being coded as commercial vehicles and the resulting registration fees were being improperly revenue shared. This error amounted to a reduction in the total county share of \$2.2 million, or \$18,668 per county (29.4 percent).

HB 535 – The impact of HB 535 reduced the total county share by \$216,000, or \$1,800 per county (2.8 percent).

Following the explanation of the revenue sharing issue, Mr. Hancock discussed highway projects in Highway District 2, including I-69 and I-66. With regards to U.S. 60, Mr. Hancock said that it was the Cabinet's position to construct the western portion of the Bypass, which offers access to the new hospital facility, as quickly as possible. He said that the eastern portion of the Bypass would be constructed at a later date. Mr. Hancock said that there are still major hurdles to cross before I-66 or I-69 can be constructed. These hurdles include federal and state appropriations and upgrading parkways to meet federal

interstate standards. He said that while it is true that Congress has designated I-69's route through Kentucky, it has yet to designate I-66's route. Mr. Hancock said the I-66's expansion program has not been completed at this date.

With no further business before the committee, the meeting adjourned at 12:15 p.m.

CAPITAL PLANNING ADVISORY BOARD Minutes of the 2nd Meeting of the 2008 Calendar September 23, 2008

The 2nd meeting of the Capital Planning Advisory Board was held on Tuesday, September 23, 2008, at 10:00 AM, in the Auditorium at the Capital Plaza Tower in Frankfort, Kentucky. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Larry Belcher, Co-Chair; Representative Ron Crimm, David Buchta, Ben Fletcher, John Hicks, Bill Hintze, Mary Lassiter, and Doug Teague.

Guests: James Abbott, Commissioner, Department for Facilities and Support Services; Steve Sherman, AIA and Randy Richardson, Sherman-Carter-Barnhart; Clayton Farmer, Architect, Greystone Architects, Incorporated; Glenn Mitchell, Deputy Cabinet Secretary, Finance and Administration; John Hicks, Deputy State Budget Director, Office of State Budget Director; Dr. John Hayek, Vice President for Finance, Council on Postsecondary Education; and Sherron Jackson, Assistant Vice President, Equal Employment Opportunity and Finance, Council on Postsecondary Education.

LRC Staff: Don Mullis, Nancy Osborne, Shawn Bowen, Kristi Culpepper, and Jennifer Luttrell.

Chairman Westwood thanked everyone for attending and expressed his appreciation for being able to meet in the Capital Plaza Tower so that the committee members could see firsthand some of the aspects of the Capital Plaza Complex. He stated that there would be a presentation that focuses on a recent report by the Finance and Administration Cabinet that makes recommendations concerning the Capital Plaza Complex. There will also be an update on the status of the long-range plans for housing state facilities with the movement of offices to newly renovated state office buildings and its impact on other agencies. He asked Don Mullis to review this information.

Don Mullis thanked Chairman Westwood. He gave a brief summary of the long-range plan to house state agencies. He reminded the members that last year the committee discussed some of the things planned after the completion

of the state office building concerning the movement of state agencies. Since that time, there has been a study on the condition of the Capital Plaza Tower and surrounding complex. He stated that he thought it appropriate to come back to talk about what has happened with the state offices in that period of time; and to provide the members with an update of the assessment of this facility and some of the recommendations that have been made. Those recommendations will ultimately come back before the Board for review. Item IV covers the long-range plans and an update on projects which have been completed or are underway. There is also a chart that updates the utilization of the state-owned vs. leased facilities. This information is important as the Board looks at the conditions of facilities and what renovations might be needed to house state agencies in the future. 2008 House Bill 2 makes changes in how buildings financed at least 50% by state funds will be built or renovated; the energy needs of state-owned buildings; and changes in the standards for buildings. 2008 Senate Bill 189, sponsored by Chairman Westwood and enacted in the last legislative session, relates to developing funding strategies to address capital maintenance needs. The Finance Cabinet, Governor's Office for Policy and Management, and the Council on Postsecondary Education are to report on possible funding strategies by December 1. The last item on the agenda is the instructions for the 2010-2016 Capital Plans. While the instructions are similar to the last version, Mr. Mullis reviewed some changes. Very specific language has been added to make sure agencies understand that some of the information in the capital plan will be transferred into the capital budget; how that works; what is transferred; and what is not. The information required for recently completed/ongoing projects will be taken from the quarterly capital projects status reports. Space needs/space reduction forms have been converted to a text only format requesting only general information. Appendix B is modified to reflect state agency reorganizations with the addition of the Energy and Environment, Health and Family Services, and Labor cabinets. These cabinets will report as a single entity. The Public Protection cabinet will report as a multiple reporting entity. Appendix C is included for use in estimating future costs. The Board is attempting to get the best estimate for the planning process.

John Hicks commented that integrating the quarterly status report into the capital planning system is just another example of how the Board continues to improve the system. That information is reported by the three branches and the Capital Projects and Bond Oversight Committee gathers it on a quarterly basis. This shows the interlocking relationship between reporting and what the Board does in the planning process.

The staff is doing a good job of taking information that is relevant to the process and integrating it in a way that makes it accurate. Chairman Westwood agreed that this approach benefits all parties involved and gives a better picture of what are the state's needs.

Moving to the topic of long-range plans for housing state agencies Senator Westwood said the Board might recall that the renovation of the State Office Building has been discussed over several planning cycles. When the Transportation Building was completed, it allowed that project to be completed as well. Several state agencies have been relocated to the State Office Building and this created opportunities to move other state agencies. The Finance Cabinet and its consultants are here today to update the Board on those changes and the possible impact of changes to the Capital Plaza Complex on the number and use of state facilities.

Glenn Mitchell, Deputy Secretary of the Finance and Administration Cabinet, stated that in the mid-90's, state government did a study known as the Fantus Study that analyzed state government's use of buildings in the Frankfort area. The basic conclusion was that state government was leasing too much space and it would be more economical for it to own more buildings. This caused the Finance and Administration Cabinet to start looking at building a major office building. The Transportation Building was the first major office building that was constructed, starting in the late 90's. With the completion of that sizeable building, it allowed the State Office Building to be vacated and renovated. Other state government agencies are now consolidated in the facility. The next domino to fall in the long-range planning is the Capital Plaza Tower. After this building, the Finance and Administration Cabinet plans to move to the CHR building on East Main, which is the last major office building in Frankfort that needs to be addressed.

Steve Sherman, Sherman-Carter-Barnhart introduced Randy Richardson and Clayton Farmer, Architect, Greystone Architects, Incorporated. He stated the original goal of the project was to develop recommendations that would allow the state to extend the life cycle of the Capital Plaza Complex some 25 years. Additionally, they were asked to develop standards that would meet all current building codes, Leadership in Energy and Environmental Design (LEED), and Energy Star qualifications for the structures that were to be renovated. The components to be evaluated were the tower, the plaza, the garage complex, the Frankfort Convention Center, and all the related shops around the complex. Physical and functional assessments were conducted for all facilities, and recommendations were developed for each. The buildings were analyzed on a room by room basis and ratings were

assigned to those structures and components. The majority of the buildings fit within the 35 to 55 range which required over 50% of the replacement cost to be expended to renovate these buildings. Several fell within the 35 category which means they were on the verge of demolition. The second phase was to determine the needs, costs, and priority rankings. At that point, the process and report took a different perspective. When the cost was determined, they started analyzing whether it was better to renovate facilities or take another approach. Based on that, Sherman-Carter-Barnhart determined recommendations in terms of scope, the budget, and the schedule for implementation. A copy of the presentation was provided in the members' folders.

Mr. Sherman went through the assessment of each area pointing out specific needs to be addressed. Each area was rated based on the same scale. Recommendations for each component of the complex were discussed. To summarize, the price would be \$134.7 million to renovate all facilities. \$156 million, approximately 15% more in cost, a new parking garage could be built with a longer life that would be tied into the Transportation Cabinet's garage and the tower could be demolished and a new office building constructed. The plaza and fountain shops could be demolished and a new public green plaza and building site created. To renovate the convention center it would cost \$23.3 million.

Phase I would be to construct the new garage and then demolish the old garage and plaza. The overpasses/plaza could be demolished at any time. The YMCA garage addition could be done at any time. Once the new garage is built and the garage and plaza is demolished, a shell of the office building could be constructed. Phase II includes the office building fit-up, demolishing the tower and the fountain shops, and creating the new plaza. The footprint would be only 20 or so feet shorter than the length of the new four-story building. With the street level plazas, one could look right across to Mero Street while driving down Clinton. Phase III would be the renovation of the convention center.

James Abbott added that the new building would be built to LEED certification therefore the utility costs of the new space would be much less than the cost of the existing space. Artificial light must be maintained 24/7 in the overpasses in order to provide safety for pedestrian and vehicular traffic. That is expensive to maintain. Without the overpasses, it is less expensive and provides a nice entryway to the downtown area.

Bill Hintze added that the previous commissioners before James Abbott had always criticized the lack of efficiency and functionality of the Capital Plaza Complex. Looking into the long-range plan of greater reliance on state-owned vs. leased space, he asked if the state

would be accommodating employees who are currently housed in the Tower, or could new space be created for staff housed in other leased space or substandard state facilities.

James Abbott stated that option could go either way. The Finance Cabinet's six-year capital plan has consistently included building another significant state office building such as on Sower Boulevard next to the Central Lab. To consider this new Capital Plaza Complex approach would give the state the option to build such a building in the downtown community and provide one-stop shopping starting at the State Office Building, Transportation Cabinet Office Building, and the new building that could be in this complex. A fourth building could be built on the future development site created under this option. The structure that Mr. Sherman and his team have proposed would replace the tenant spaces in the Tower and the Fountain Place Shops with some additional area, but one could create a taller building than the four-story proposed building depending on the future development needs of the Commonwealth.

John Hicks asked if the Board had heard any more about the master planning and the use of the land on Sower Boulevard and additional sites for any new state office building construction. He stated that the rating system presented was very helpful in trying to decide if the buildings should be rehabilitated or built new instead.

James Abbott replied that before the State Office Building was remodeled, about 800 staff were housed in that facility. Due to the renovation of the floor space and by utilizing modular furniture, 1,200 staff are currently housed in that building. Because of the way the core of the Tower is designed, the ability to increase the occupancy level of this building does not exist.

In response to Chairman Westwood's question about the convention center and whether vendors have turned away from using this building because of its condition, Mr. Abbott replied that it is a challenging parking situation when there is a large convention at that site during the same operational hours of the Commonwealth. The proposed addition to the YMCA parking would add capacity to the current garage and would make it a more rentable facility. The improvements mentioned are needed to attract customers. He stated that Clayton Farmer has looked at putting a front on the convention center because it looks the same on all four sides. The green area between the convention center and the hotel could be planned for further development for convention-type space. Meeting rooms that are not present now could be added. The green space could also be used for other public events, such as fairs or other gatherings either at the hotel or the convention center.

Mr. Abbott then discussed the

chart depicting the state's Frankfort based needs. The Fantus Study indicated that the state needed to have an ideal balance of 15% leased vs. owned space. The Commonwealth has reduced this balance from a high of 31% to 22% since 1980 when there was 750,000 SF of leased space. The Commonwealth is up to almost a million square feet of leased space, but when one looks at the amount of state-owned space that has been brought online, it is on the right track. With the current budget shortfalls of the Commonwealth and the retirements that are occurring, there are a number of state agencies that have contacted his department in regards to wanting to reduce the amount of state-owned and leased property. This is increasing the Commonwealth's utilization of state-owned property to the point of reducing our leased footprint. The state is also looking at two significant moves at 209 St. Clair and 319 St. Clair. These buildings are approaching 20,000 SF in total. The state is looking to move that footprint to the Cabinet for Human Resources complex. The old surplus property building on Barrett Avenue has been renovated to provide a usable warehouse of about 35,000 SF for some of the state agencies occupying the renovated State Office Building.

Mr. Abbott said the last piece of this puzzle has always been to construct one major office building which will get the state closer to the goal of the 15% balance. He mentioned that in Jefferson County, the state-owned L and N building was recently remodeled and staff from leased property have been moved to this three-story 90,000 SF building. An energy saving performance contract was utilized to bring this building back online. It is all a matter of funding and time, but the state is making headway.

In response to Chairman Westwood's question about other buildings that might be vacant right now because they need remodeling, Mr. Abbott stated that at Northpoint Training Center, the Department of Corrections has been using federal money to remodel the old hospital building on the grounds. That work has not moved forward at a very rapid pace, but the state is trying to remodel and bring the building up to code, which could be used to address overcrowding in the prison population. John Hicks added that their most pressing need is for women's prison space.

Chairman Westwood stated that he appreciated the report. He then stated that HB 2 was enacted by the 2008 General Assembly to add new provisions dealing with energy efficient buildings. The Finance Cabinet was given the responsibility to develop and implement a number of provisions relative to state owned and leased facilities. One of those is the creation of the High Performance Buildings Advisory Committee which held its first meeting on September 17, 2008. He asked Mr. Jim Abbott to pro-

vide an update on the status of implementation of those requirements.

James Abbott provided the members information that included brief resumes for the ten public members of the High Performance Building Advisory Committee. He stated that the construction standards need to be improved upon. The current building code made a significant jump relative to the construction across the industry not only in commercial, but in residential construction as well to build in a green manner. Mr. Abbott discussed the handout information concerning Energy Savings Performance Contracts, E-SELF Green Pilot Program, Natural Gas Procurement, and a number of other ongoing initiatives. The Department of Facilities and Support Services is responsible for 5.2 million SF which generate \$8 million in annual utility costs. The cumulative impact of these initiatives is expected to reduce that cost by 18 % or more. There are similar opportunities for the postsecondary educational institutions.

John Hicks added that one of the key components of the capital planning process and the budget process is the operating costs of a new building. These costs should be seen in future requests.

James Abbott commented that the implementation of HB 2 will set the Commonwealth on a much straighter path relative to greening Kentucky. The benefits will be tremendous.

James Abbott stated that the Kentucky Community and Technical College System has a building that is being designed to meet LEED requirements. Also, the existing central utility plant that is located behind the State Office Building has the capability to supply chilled and steam water for the proposed new buildings downtown. Kentucky has really made a concentrated effort to look at the future of its buildings.

Chairman Westwood thanked Mr. Abbott for his presentation. He also stated that this Board in SB 189 directed that the Finance and Administration Cabinet work with GOPM to recommend a process to fund the capital maintenance and renovation needs of state facilities. The Council on Postsecondary Education (CPE), along with GOPM, is required to deal with education facilities to develop the same information. He then introduced Glenn Mitchell, Deputy Secretary of the Finance and Administration; John Hicks from GOPM, Dr. John Hayek, Vice President for Finance for CPE; and Sherron Jackson, Assistant Vice President for EEO and Finance, CPE.

Glenn Mitchell stated that this is essentially a budget issue. He noted that Chairman Westwood had the foresight to include the Office State Budget Director (OSBD) with both the Finance Cabinet for expertise relative to state buildings and CPE which has the responsibility for universities' buildings. He stated that he sees their role as providing raw data upon which to base these recommenda-

tions. He believes the issue of coming up with the budget mechanism for creating a way to fund these needs falls directly on the OSBD.

John Hicks gave a brief background of the Board's emphasis of concentrating on the deferred maintenance of the capital facilities in the Commonwealth. He stated that 2008 SB 189 brings light to this issue. The Executive Branch brings the institutional responsibility of developing good information for decision makers to address the issue of funding deferred maintenance. He stated that the Board should look at how other state governments approach the problem and who is most successful at this process. He stated that they would look at Kentucky's history and use information from the Finance and Administration Cabinet on the condition of building systems. CPE has shown that renovation and rehabilitation of buildings has as much to do with how the building is utilized as to how old the roof is, both of which are important points. He stated that OSBD is interested in correctional facilities, juvenile justice facilities, mental health and mental retardation facilities and hospitals. For each physical plant, the conditions need to be updated because it is the foundation of information from which the deferred maintenance needs are determined. This issue has to have a good body of information to be able to compete with other demands on state resources. Ryan Green of GOPM has been assisting Mr. Hicks and they are working with Mr. Mitchell and Mr. Abbott's department to assess facilities. Separately, they will be working with Dr. Hayek and Mr. Jackson as it relates to postsecondary facilities.

Chairman Westwood expressed his appreciation for this information. He added that it may cost a little bit more, but in the long run it has huge savings.

Sherron Jackson added that an outline of activities has been developed to put the report together. He noted that in May 2007, CPE reported to the Board that postsecondary education had contracted with VFA, Incorporated of Boston, Massachusetts and assessed approximately one-half of the 29 million SF of education space that is in critical condition and needs upgrading, renovation, and remodeling. The index code was found to be at 22%, which is much greater than the national average in postsecondary education. If left unchecked the percentage would increase to about 36% in five years. He said CPE developed a budget recommendation that infused funds into the process on a regular basis. For the 2008-10 budget process \$90 million was requested, but only \$13.9 million was appropriated to address the deferred maintenance issue to be matched by the institutions. There is more work that needs to be done to bring postsecondary education up to a minimum standard that supports the goals and objectives established in HB 1

in 1997. Over the last 12 years, the state has provided about \$65 million of state General Fund moneys through bonds, etc. that has been matched by the institutions to address those issues.

The study groups held their first meeting on SB 189 on July 31, 2008, to begin to think about what can be done to create a process that can be put in place in collaboration with the state to address the deferred maintenance or capital asset preservation aspect of postsecondary education. The groups also met in August with OSBD to outline what might be a reasonable approach with input from others to address this issue. Further meetings are planned later this month and in October, with a draft of a document to be ready in November. The final document would be available to the Legislative Research Commission (LRC) by December 1.

John Hicks stated that one of the things that Chairman Westwood mentioned was the opportunity cost of not improving the investment in these areas. This is part of the challenge. The issue is large and there is a need to maintain the use of the facilities rather than bear the greater cost of investing in replacements. He stated that Mr. Jackson summarized it well and he looks forward to working with the institutions and with the Council.

Chairman Westwood stated that he liked the phrase "capital assets preservation." It summarizes all of the Board's goals to preserve our capital assets. He thanked the presenters. Turning to the Instructions and Forms, 2010-2016 Agency Capital Plans, Senator Westwood noted that under KRS 7A, the Board is to prescribe the format for agencies to use to submit their capital plans every two years. A draft of the complete set of instructions and forms is before the Board for action today.

Doug Teague asked about the significant dates of the Agency Capital Plans. Don Mullis responded that April 1, 2009, is the submission date. The Board is required to make its recommendation for the 2010-2016 Statewide Capital Improvements Plan on November 1, 2009. The Board's goals are to open the Capital Planning system up for practice by Thanksgiving, but this may be pushed to December 1.

Representative Crimm made a motion to approve the minutes from the last two meetings. The motion was seconded by John Hicks and passed by unanimous vote.

Representative Crimm made a motion to approve the 2010-2016 Agency Capital Planning Instructions and Forms. The motion was seconded by John Hicks and passed by unanimous roll call vote.

Chairman Westwood stated that the next meeting would be at Western Kentucky University in November, but that the specific date was not set and that Mr. Mullis would work this out with the Board and university. With there be-

ing no further business, the meeting adjourned at 11:58 AM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

September 16, 2008

The Capital Projects and Bond Oversight Committee met on Tuesday, September 16, 2008, at 2:00 PM, in Room 169 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Mike Denham, Co-Chair; Senators Tom Buford and Jerry Rhoads; and Representatives Steven Rudy and Jim Wayne.

Guests testifying before the Committee: Brent Antle and Tom Howard, Office of Financial Management; Rainer Andrews, Summit Asset Management; John Egan, Bond Counsel to King's Daughters Medical Center; John Hicks, Governor's Office for Policy and Management; Jim Lane, Department of Fish and Wildlife Resources; Nancy Brownlee, Finance and Administration Cabinet; Katie Smith, Economic Development Cabinet; and Sandy Williams, Kentucky Infrastructure Authority.

LRC Staff: Nancy Osborne, Shawn Bowen, Kristi Culpepper, Don Mullis, and Jennifer Luttrell.

Representative Denham made a motion to approve the minutes of the August 18, 2008, meeting. The motion was seconded by Senator Rhoads and approved by voice vote.

Senator Tori announced that due to the potential loss of the Committee's quorum later in the meeting, agenda items requiring action would be discussed first. She then introduced Tom Howard, Executive Director, Office of Financial Management (OFM), and Brett Antle, Deputy Executive Director, OFM, to discuss new bond issues.

Mr. Antle reported three new State Property and Buildings Commission (SPBC) bond issues. The first bond issue, SPBC Revenue and Revenue Refunding Bonds Project 90 (General Fund), in an amount not to exceed \$375 million, will be used to provide permanent financing for \$270.1 million of General Fund supported projects authorized in the 2005, 2006, and 2008 Regular Sessions of the General Assembly. Project 90 will also redeem approximately \$100 million of outstanding Project Notes issued by the Kentucky Asset Liability Commission (ALCo) for interim financing of authorized capital projects, refund outstanding bonds from the SPBC Project No. 60, and restructure outstanding debt and use capitalized interest to provide \$50 million in budgetary relief for Fiscal Year 2009, as directed by the 2008-10 budget. Approximately \$42.7 million of previously issued SPBC bonds will be restructured. Approximately \$7 million

of capitalized interest is included on the new money component.

Representative Wayne asked how the principal and interest payments for this bond issue are structured. Mr. Howard responded that the current principal and interest obligations that are coming due immediately are pushed out to a later date.

Senator Rhoads made a motion to approve the SPBC Project 90. The motion was seconded by Representative Denham and passed unanimously by roll call vote.

The next bond issue Mr. Antle discussed was SPBC Revenue and Revenue Refunding Bonds Project 91. This is an agency fund transaction to provide permanent financing for approximately \$14 million of the \$33.2 million in Kentucky River Authority Agency Bonds authorized by the 2006 session of the General Assembly. This financing will redeem the Project Notes issued by ALCo in 2007 that provided the initial funding for construction of the new Dam 9 project in Jessamine County. The pledge of security for this transaction is the Tier Two fees charged by the Kentucky River Authority on water withdrawals. This will be the first permanent financing issued for the Kentucky River Authority's capital projects. The par amount on this transaction is \$16.7 million, of which \$1.35 million will be used to fund a debt service reserve. A rate stabilization fund has been put in place as part of this transaction that will be funded through existing cash-on-hand by the Kentucky River Authority.

Mr. Howard said these bonds will be a moral obligation of the Commonwealth, as has been done in the past with agency restricted fund bond issues when the revenue streams are weak or could potentially become weak given the amount of leverage that is being employed. He noted that the state's moral obligation pledge applies not only to this transaction, but also to the SPBC Revenue Bonds Project 92 relative to the Department of Military Affairs, Bluegrass Station, which will be discussed next.

Representative Rudy made a motion to approve SPBC Revenue Bonds Project 91. The motion was seconded by Senator Rhoads and passed unanimously by roll call vote.

Mr. Antle next discussed SPBC Revenue Bonds Project 92 (Taxable Agency Fund), Department of Military Affairs, Bluegrass Station. The proceeds from this bond issue will provide permanent financing for the \$4.4 million in agency bonds authorized in the 2008-10 budget to upgrade the fire suppression, drinking water, and electrical systems at Bluegrass Station located in Lexington.

Mr. Antle said the debt service pledge in this transaction will be the lease revenues from tenants at Bluegrass Station. There was an original transaction for Bluegrass Station under this credit issued in 2005 to fund a new

hanger project and, consistent with that prior bond issue, the moral obligation of the state had been pledged in case of a revenue shortfall.

Representative Denham asked why Project 91 and Project 92 include the moral obligation pledge of the Commonwealth. Mr. Howard said the moral obligation provision may essentially apply to those entities that are part of the state budgetary process. The pledge requires the Secretary of the Finance and Administration Cabinet to include in his budget request for the next legislative session an appropriation either to replenish the debt service reserve fund in the case of the Kentucky River Authority (KRA), or to request funding of the debt service payments in the case of the Bluegrass Station, which would be a stronger moral obligation.

Mr. Howard said the KRA transaction includes a rate stabilization fund whereby KRA has pledged some resources to smooth out its revenue streams. This fund reduces the likelihood that the debt service reserve fund would be utilized and that a request for an appropriation would be made. The revenue streams at Bluegrass Station are much tighter and access to the marketplace would not be possible without the moral obligation. This is particularly true in the current market environment. The project would not be funded because of the lack of credit enhancement and because bond insurance is no longer a viable business model.

Representative Denham asked what happens if the General Assembly declines to appropriate the funds. Mr. Howard responded that if the debt service is not paid, the bonds would be in default.

Representative Denham asked why the Project 92 bonds are being issued by SPBC, and not the Asset Liability Commission (ALCo). Mr. Howard said the bonds for Bluegrass Station improvements could be issued under either of these two agencies. Both are eligible to finance appropriation-supported projects. In this case, it is just a matter of convenience since there are two other SPBC issues being marketed simultaneously. He said the combined issue would have a market advantage because the offer includes state General Funds as one option and a dedicated revenue source as a second option. There is also a small amount of taxable bonds so investors will have an opportunity to purchase a variety of state credits at various rates, which is attractive, particularly since the tax carries a state exemption. He said in today's markets, the spreads would be wider than investors can get on a number of other products, particularly US Treasuries.

Representative Denham asked if the projected all-in true interest cost for this bond issue of 6.76% will remain constant considering current market conditions. Mr. Howard responded that it may be closer to 7%, but the market was un-

predictable.

Representative Wayne asked why the SPBC Project 92 bonds are being sold as a taxable issue. Mr. Howard explained that Bluegrass Station leases its property to private business enterprises that have operations there so these bonds will be supported by private funds for a private purpose. The federal government also leases space at Bluegrass Station and federal law does not allow tax-exempt bonds to be issued when federal funds are involved in a repayment under a contract. He said with these stipulations, there is no other alternative than to finance the projects except on a taxable basis.

Representative Rudy made a motion to approve SPBC Revenue Bonds Project 92. The motion was seconded by Representative Denham and passed by roll call vote. Representative Wayne voted no based on the purpose and use of the bond proceeds.

The next new bond issue reported by Mr. Howard was Kentucky Housing Corporation Multifamily Housing Revenue Bonds, Series 2008 (Watterson Lakeview project), \$6,170,000. He said the purpose of this bond issue is to provide conduit financing for the acquisition, rehabilitation, and equipping of the Watterson Lakeview Apartment project located 3703 West Wheatmore Drive in Louisville, KY.

In response to a question from Representative Wayne, Mr. Rainer Andrews, who represented the developer, Summit Asset Management, said the property is located in the southwest quadrant of Louisville near the airport and Dixie Highway. He said this property is being rehabilitated and upgraded and does not include new construction.

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

Mr. Howard next discussed Kentucky Economic Development Finance Authority (KEDFA) Revenue Bonds (Ashland Hospital Corporation d/b/a King's Daughters Medical Center Project), Series 2008 A, 2008B, and 2008C in the amount of \$147,380,028. The proceeds of the bond issue will provide finance to refund outstanding variable rate bonds, and to improve the fourth floor of the Ashland Hospital's Heart and Vascular Center and vacated space.

Senator Tori asked if a Certificate of Need (CON) was required for this project. John Egan, Bond Counsel for King's Daughter's Medical Center, said this issue as to whether a CON was needed arose two years ago when the hospital sought financing for new construction bonds. It was later determined that no CON was needed because the hospital was not increasing the number of beds or expanding the type of facilities from what was already offered by King's Daughters. He said a CON is still not needed.

In response to another question from Senator Tori, Mr. Egan said the purpose of this bond issue is to refund outstanding bonds in the amount of \$130,000,000. He said the remainder, \$15,000,000, is new money for renovations to the Heart and Vascular Center and for a new data center. No new beds will be added.

Representative Denham observed that this project is particularly important to residents in the counties of Greenup, Carter, and Lewis, and parts of Mason. He said as a heart attack survivor and a survivor of open heart surgery, this is an important project for his area of the state.

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

Mr. Howard discussed KEDFA Variable and Fixed Rate Demand Solid Waste Disposal Revenue Bonds (Republic Services, Inc. project), Series 2008 in the amount of \$18,025,000. Mr. Howard said the proceeds from this conduit bond issue will fund improvements at existing landfills in Williamstown, Beaver Dam, Louisville, Nicholasville, Stanford, and Sulphur, Kentucky.

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

Mr. Antle presented two new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Barren County and Bell County.

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

Ms. Osborne next discussed correspondence and information items included in members' folders. Correspondence was received from the Finance and Administration Cabinet reporting plans by the Department of Military Affairs to use the design-build project delivery method to build unheated storage buildings at the Shelbyville and the Leitchfield Readiness Centers.

Ms. Osborne briefly discussed items included in the Staff Update. She said the Louisville Arena Authority has completed a deal to sell \$349.2 million in bonds to finance the construction of a new downtown Louisville Arena. The bonds were sold in September and a follow-up report is anticipated for the October Committee meeting. She noted Jim Host, Chairman of the Louisville Arena Authority, will be asked to attend the meeting.

Included in the Staff Update was an article noting the Kentucky Supreme Court has ruled that the University of Louisville Foundation (U of L) must make public its list of donors. The court has

ruled that the U of L Foundation is a public entity. The Staff Update also noted that Tom Howard, Director of the Office of Financial Management, has been appointed as a public representative to the Municipal Securities Rulemaking Board effective October 1, 2008.

John Hicks, Deputy Budget Director, Governor's Office for Policy and Management (GOPM), presented the project report submitted by the Finance and Administration Cabinet. Mr. Hicks reported a \$46,500 project scope increase for the Terry's Branch – Knott County Stream Mitigation project that had been previously reported in January 2006. The scope increase will cover costs associated with a change in the design contract due to increased five-year monitoring requirements stipulated by the U.S. Department of Army Corps of Engineers. The project will be administered by the Department of Fish and Wildlife Resources in the Tourism, Arts, and Heritage Cabinet.

Senator Tori asked what the monitoring requirements for this project are. Jim Lane, Kentucky Department of Fish and Wildlife Resources, said the project will be monitored for five years. As the permit holder for this project, the Department must show a successful stream restoration project has been completed. This involves going out and taking water quality samples and monitoring the fish and bugs that live in the stream. Also, the state must show that the stream is stable and that vegetation is established.

The revised project scope for the Terry's Branch – Knott County Stream Mitigation project is \$658,500. No action is required for allocations from a pool.

Next, Nancy Brownlee, Director of the Division of Real Properties, reported a lease modification for the Energy and Environment Cabinet (EEC), Division of Abandoned Mine Lands in Franklin County. The agency plans to install a new exterior automatic door at the main entrance of its leased facility at 2521 Old Lawrenceburg Road. Ms. Brownlee said the cost of the proposed improvement is \$3,515 and will be amortized over the remaining lease term (through June 30, 2009).

In response to a question from Senator Tori, Ms. Brownlee said she did not anticipate many requests for improvements to state leased or owned facilities in the future. She noted last year the Finance Cabinet received many agency requests. However, in light of budgetary issues, requests for improvements have declined sharply. No action is required for lease modifications of less than \$50,000.

Senator Tori asked Sandy Williams, Kentucky Infrastructure Authority (KIA), to come to the table. Ms. Williams presented one KIA Fund A (Federally-Assisted Wastewater Revolving Loan Fund) loan for the Committee's approval for

\$4,916,100 for the City of Hopkinsville, Christian County. The loan proceeds will be used make various surface and storm water improvements. The loan will be at 2% for 20 years.

Representative Wayne made a motion to approve the KIA loan. The motion was seconded by Senator Rhoads and approved unanimously by voice vote.

In response to a question from Senator Tori, Kasi White, Financial Analyst, KIA, clarified that there is no automatic annual adjustment to the \$3.00 per residential customer storm water assessment fee associated with this loan. In its staff analysis, KIA had projected that revenues – not the amount of the fee – would increase by 1% annually based upon projected population. She noted the fee was set by ordinance effective August 2007.

Senator Tori asked if the assessments are paid into a separate fund that will be used to pay off the Fund A loan. Ms. White responded that this was correct and said the City of Hopkinsville formed the surface and storm water utility by ordinance in December 2005 to address flooding and future development needs.

Representative Wayne asked Ms. Williams to explain the new interest rate structure KIA has adopted for Fund A loans. Ms. Williams said the new structure adopted at the August KIA Board meeting identifies a standard rate of 3% and two non-standard rates of 2% or 1% depending upon the utility's median household income. Consideration for the non-standard rate is also given for regional projects and any project that has a legal action, such as a consent decree or an agreed order issued through the court, the state Division of Water, or the U. S. Environmental Protection Agency.

Senator Rhoads asked what kind of public process these loans go through. Ms. Williams this loan went through the city council and there was the proper due process, including public meetings with the storm water utility. She added this project will help eliminate flooding in the area and some of the environmental concerns associated with the runoff.

Senator Tori said she was aware of areas in Hopkinsville that had flooding problems, as well as new development areas that have drainage problems. She asked Ms. White to please provide the Committee with a copy of the ordinance.

In response to questions from Senator Buford, Ms. White said KIA requires a replacement reserve of \$12,250 to be funded annually and this amount is incorporated into the current \$3.00 per household fee. No additional fees will be charged. She said this reserve will be used to cover any kind of expenses necessary to maintain the project.

Senator Buford asked if the residents of Hopkinsville are aware of the project and the associated fees. Ms. Williams said there has been public discussion,

and that the \$3.00 fee has been in place since summer 2007.

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

Ms. Williams next reported various coal/tobacco development grants that were funded through line-item appropriations from the 2005 General Assembly. These projects were authorized pursuant to the 2004-06 budget and no further action was necessary.

Ms. Katie Smith, Deputy Commissioner for the Department of Financial Incentives, Cabinet for Economic Development, said enclosed in members' folders was the Cabinet's Annual Report on Economic Development Bond Pool (EDB) Program – Monitoring of Jobs Creation / Payback Requirements.

Representative Wayne noted that the ABC Automotive Systems EDB grant was approved in July 2004, but it was only recently finalized. He asked what caused the over four-year delay. Ms. Smith said in the process of finalizing the first draft of the agreement, the name of the company was changed and an amendment had to be executed. The company was also trying to get a letter of credit, which was a condition of the grant.

In response to a question from Representative Wayne, Ms. Smith agreed that the grant took a long time to process. She said during this time there was also a transition from the previous deputy commissioner to her. No action was required for this report.

Mr. Howard next reported two follow-up reports for previously approved bond issues: Turnpike Authority of Kentucky Economic Development Road Revenue Bonds (Revitalization Projects), \$195,665,000; and Kentucky Higher Education Student Loan Corporation Student Loan Revenue Bonds, \$50,000,000.

Mr. Howard noted that with the Turnpike Authority bond issue, four years of principal were delayed to manage the amortization of the Road Fund debt to get it more in line with the state's longer-term policy goals of between 25%-30% in five years and between 55%-60% in ten years. There is no capitalized interest associated with the transaction. He added that OFM is pleased with the market reception for these bonds and it represents one of the Commonwealth's lower cost of financing.

Relative to the \$50 million bridge financing for the Kentucky Higher Education Student Loan Corporation, Mr. Howard noted that this was a private placement with the Commonwealth of Kentucky that closed August 20, 2008, and matures November 14, 2009. The variable interest rate is equal to 91-day commercial paper plus 50 basis points, which is at 2.97% today. The Commonwealth is earning 3.5%, compared to U.S. Treasuries, which are earning about

0.25% at today's rates.

The bond issues were approved at a previous Committee meeting, and no further action was required.

Mr. Howard said Committee members' folders also included the Annual Report of Bonds Outstanding. He said from June 30, 2007, the state had approximately \$9.6 million of appropriation and moral obligation debt outstanding and at the end of June 30, 2008 the Commonwealth had approximately \$11 billion outstanding. He said there was approximately \$2.8 billion in authorized but unissued debt.

Senator Tori said the Committee's next meeting is scheduled for October 21 in Room 169 of the Capital Annex.

With there being no further business, Representative Rudy made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 3:00 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September Meeting September 9, 2008

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 9, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Robert R. Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Dick Roeding, Co-Chair; Representative Robert R. Damron, Co-Chair; Joey Pendleton, and Gary Tapp; Representatives Danny Ford, and Ron Weston.

Guests: Mike Carr, Alicia Sneed, Dr. Marilyn Troupe, Education Professional Standards Board; Richard Dobson, Ricky Haven, Department of Revenue; John Covington, Kentucky Infrastructure Authority; Jeff Boler, Jim Grawe, Gerald Hoppman, Perry Wornall, Board of Veterinary Examiners; Nathan Goldman, Board of Nursing; Margaret Hazlette, Board of Social Work; Ryan Halloran, Terry Reams, Board of Certification of Alcohol and Drug Counselors; Steven Dobey, David McChesney, Darin Moore, Melany Taylor; Department of Fish and Wildlife Resources; Jory Becker, Barry Elmore, Peter Goodmann, Alan Grant; Sandra Gruzesky; Abigail Powell, Tom Vansrdall, Division of Water; John Carrico, Mark Mangeot, Morgain Sprague, Stacy Warnecke, Department of Kentucky State Police; Dana Fugazzi, Doug Sutton, Cindy Vanhoose, Department of Vehicle Regulation; James Cundy, Mark Myers, Department for Libraries and Archives; Tamela Biggs, Larry Moore, Department for Workforce Development; Brenda Parker, Melia Rivera, Kentucky Department of Insurance; Carrie Banahan, Jeni Cracraft, Cabinet for Health and Family Services; Guy Delius, Vonia Grabeel, Department of Public Health; Stephanie Brammer-

Barnes, Wendy Fletcher, Jan Gould, Brad Hall, David Hopkins, Van Ingram, Sharon Eli Mercer, Jeffrey Osman, Beth Partin, Sadiqa Reynolds, Dave Sallengs, Stan Salyards, Matt Thomerson, Lloyd Vest, Gary Williamson, Paula York, Office of Inspector General; Stuart Owen, Department for Medicaid Services; Elizabeth Caywood, Justin Dearing, Department for Community Based Services.

LRC Staff: Dave Nicholas, Donna Little, Sarah Amburgey, Emily Harknider, Laura Milam, Emily Caudill, Jennifer Beeler, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Tuesday, September 9, 2008, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Administrative Certificates

16 KAR 3:050. Professional certificate for instructional leadership - school principal, all grades. Mike Carr, director of certification; Alicia A. Sneed, director of legal services; and Dr. Marilyn Troupe, director of the Division of Educator Preparation, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:020. Sales and Telecommunications Forms manual. Richard Dobson, executive director, and Ricky Haven, director, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A and to use the correct titles of the forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 3:050. Miscellaneous Taxes Forms manual.

In response to a question by Co-Chair Roeding, Mr. Dobson stated that the forms relating to miscellaneous taxes were being updated as part of the annual update of this administrative regulation and that this administrative regulation updated forms relating to taxes for health-care providers.

A motion was made and seconded to approve the following amendments: to amend Sections 1 to 15 to comply with the drafting and format requirements of KRS Chapter 13A and to use the correct titles of the forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; General Exemptions

103 KAR 30:091. Sales to farmers.

In response to a question by Senator Pendleton, Mr. Dobson stated that agents for hormone enhancement for the production of milk were tax exempt.

In response to questions by Co-Chair Roeding, Mr. Dobson stated that KRS 139.480 described aquatic organisms, including prawns and catfish. Catfish farms were exempt from Kentucky sales tax. A single certification sufficed for on-farm repairs such as repairing a fence or expanding a pond but that, if a contractor was involved, the certification had a specific time frame for the repairs or construction. This administrative regulation provided examples, rather than an exhaustive list of sales and use tax provisions for sales to farmers.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to add definitions for "crops", "farmer", "farm machinery", and "person"; (4) to amend Sections 1 to 13 to comply with the drafting and format requirements of KRS Chapter 13A and to clarify examples of farm-related items exempt from sales and use tax; and (5) to add Revenue Policy 51P360 to the list of policies rescinded by this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Office of Sales and Excise Taxes

103 KAR 31:200. Energy efficiency products.

A motion was made and seconded to approve the following amendments: (1) to amend the title and Sections 2, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A; (2) to amend the RELATES TO paragraph and Section 1 to correct statutory citations; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Kentucky Infrastructure Authority: Continuing education requirements

200 KAR 17:090. Guidelines Kentucky Infrastructure Authority Grants from Unobligated Bond Pool Funds. John E. Covington, III, executive director, represented the authority.

In response to questions by Senator Tapp, Mr. Covington stated that the Unobligated Bond Pool was for water and sewer emergencies or needs between sessions of the General Assembly, such as a package water or sewer plant that stopped working or was taken over by a public water supply system or a package

plant that was damaged after a vehicle collided into it. The project maximum was \$500,000 and the current bond pool total fund was \$3.4 million.

In response to a question by Co-Chair Roeding, Mr. Covington stated that the board approved funding for a project and then sent the matter to the Capital Projects and Bond Oversight Committee. In response to a request by Co-Chair Roeding for the authority to send a copy of this administrative regulation to local governments, Mr. Covington stated that the authority's intent was to send it to agencies that could benefit from the program, such as the area development districts.

In response to a question by Co-Chair Damron, Mr. Covington stated that the current bond pool total fund was \$3.4 million. Co-Chair Damron stated strong opposition to an executive branch agency distributing funding since distribution of funds was under the jurisdiction of the General Assembly.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 3, 5 and 6 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Section 6 to clarify that an eligible project shall be reviewed by the Capital Projects and Bond Oversight Committee; and (5) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with the agreement of the agency, the amendments were approved.

Board of Veterinary Examiners: Board

201 KAR 16:110. Prescriptions and dispensation of drugs for animal use. Jim Grawe, assistant attorney general; Gerald W. Hoppmann, director; and Perry W. Wornall, board chairman, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (2) to amend Section 7 to clarify the role of the veterinary assistant in the dispensing of drugs; and (3) to amend Sections 1 to 3 and 5 to 7 to comply with the format and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:410. Expungement of records. Nathan Goldman, general counsel, represented the board.

A motion was made and seconded

to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Social Work: Board

201 KAR 23:015. Temporary permission to practice. Jim Grawe, assistant attorney general; Margaret Hazlette, board chairperson; and Gerald W. Hoppmann, director, represented the board.

In response to a question by Senator Tapp, Ms. Hazlette stated that four (4) to five (5) temporary permits to practice social work were issued yearly and that the intent of this administrative regulation was to allow recent graduates to become employed while waiting for licensure processing.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) comply with the drafting and format requirements of KRS Chapter 13A; and (2) provide 120, rather than sixty (60), days for a temporary permit extension. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 23:070. Qualifying education and qualifying experience under supervision.

In response to a question by Senator Tapp, Ms. Hazlette stated that she could not comment regarding whether or not five (5) years of work in another jurisdiction was comparable to the amount of time required by other states for qualifying experience, but that the board had applicants with twenty (20) and thirty (30) years of experience. She further stated that the applicants would still be permitted to take the exam.

In response to a question by Co-Chair Roeding, Ms. Hazlette stated that the national board would not give the exam twice to the same applicant.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 9 to comply with the drafting and format requirements of KRS Chapter 13A; and (4) to revise the contract incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Certification of Alcohol and Drug Counselors: Board

201 KAR 35:020. Fees. Ryan Halloran, assistant attorney general; Gerald W.

Hoppmann, director; and Terry L. Reams, board chairman, represented the board.

In response to a question by Co-Chair Roeding, Mr. Reams stated that the alcohol and drug counselors had been notified regarding the fees and that they did not make comment.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 9 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:040. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 1 through 11 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:050. Curriculum of study.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 1 through 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:060. Complaint procedure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 through 5 and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:070. Supervision and work experience.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 to 4 to comply with the drafting and format

requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:082. Transportation and holding of exotic wildlife. Steven Dobey, program coordinator; David McChesney, program manager; Darin K. Moore, director; and Melany Taylor, attorney, represented the department.

In response to a question by Senator Tapp, Mr. Moore stated that this administrative regulation only affected fairs.

A motion was made and seconded to amend Sections 5, 7, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and hunts.

In response to a question by Representative Ford, Mr. Moore stated that this administrative regulation did not impact land owners' ability to hunt on their own land.

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

301 KAR 2:176. Deer control tags and destruction permits.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Wildlife

301 KAR 4:070. Scientific and educational collecting permits.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to delete email addresses; and (2) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Water Quality

401 KAR 5:012. Repeal of 401 KAR 5:040. Jory Becker, manager; Peter Goodmann, manager; Sandra Gruzesky, executive director; and Bruce Scott, commissioner, represented the department.

401 KAR 5:052. Requirements applicable to cooling water intake structures for facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

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

ITY paragraph and Section 1 to make technical corrections; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to conform to the reorganization authorized by Executive Orders 2008-507 and 2008-531. Without objection, and with agreement of the agency, the amendments were approved.

Water Wells

401 KAR 6:001. Definitions for 401 KAR Chapter 6.

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

401 KAR 6:310. Water supply well construction practices and standards.

In response to a question by Senator Tapp, Mr. Goodmann stated that jetted wells and driven-point wells were prohibited for public water supply use because the wells did not have a sanitary seal and contaminants could migrate into the water supply. Mr. Goodmann stated that this was a public health concern.

A motion was made and seconded to approve the amendment to add a statutory citation to the RELATES TO paragraph. Without objection, and with agreement of the agency, the amendment was approved.

401 KAR 6:320. Certification of water well drillers.

401 KAR 6:350. Monitoring well construction practices and standards.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend Section 4 to include requirements for flush-mount monitoring well surface pads. Without objection, and with agreement of the agency, the amendments were approved.

Water Quality Certification

401 KAR 9:020. Section 401 Water Quality Certification fees.

Co-Chair Roeding thanked the department for exempting fees for applications for certifications for impacts to streams up to 500 linear feet.

In response to a question by Co-Chair Roeding, Mr. Scott stated that duplexes and triplexes would most likely fall into the exemption for impacts to streams up to 500 linear feet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make technical changes and to conform to the reorganization authorized by Executive Orders 2008-507 and 2008-531; (3) to amend Sections 1 through 4 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Sec-

tion 3 to revise the fee system to remove fees for the cost of processing applications for certifications impacting streams up to 500 linear feet; (5) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT; and (6) to add a FEDERAL MANDATE ANALYSIS COMPARISON, as required by KRS 13A.245. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Kentucky State Police: General Traffic

502 KAR 15:010 & E. Accident reports. John Carrico, lieutenant; Morgain Sprague, attorney; and Stacy Warnecke, DNA database supervisor, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 to 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

DNA

502 KAR 32:010 & E. Centralized database for DNA identification records.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 7, and 8 to conform to the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Driver Improvement

601 KAR 13:070. KRS 159.051. Compliance verification for a minor. Dana Fugazzi, attorney; Doug Sutton, assistant director; and Cindy VanHoose, director, represented the cabinet.

Co-Chair Roeding thanked the department for its hard work on this administrative regulation.

Co-Chair Damron thanked the department and stated that it was his understanding that the sponsor of the legislation was in agreement with this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the TITLE and NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the function served by this administrative regulation; (3) to amend Section 2

to set forth all requirements for a minor driver license application and to delete the "School Compliance Verification for Driver Licensing Form" and replace it with the "Driver License-ID Card Application Form"; (4) to amend Sections 4 and 5 to clarify the process for notification of compliance with KRS 159.051 and notification of reapplication after compliance is established; and (5) to amend Sections 2 to 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department for Libraries and Archives: Archives

725 KAR 1:030. Scheduling public records for retention and disposal; procedures. James Cundy, manager, and Mark Myers, archivist, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

Department for Workforce Development: Unemployment Insurance

787 KAR 1:190. Recoupment and recovery. Larry W. Moore, policy analyst, represented the department.

A motion was made and seconded to approve amendments to Section 1 to comply with the drafting requirements of KRS 13A.222(4)(a). Without objection, and with agreement of the agency, the amendments were approved.

Employment Services

787 KAR 2:020. Confidentiality of records of the office of employment and training.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:180 & E. Standard health benefit plan. Brenda Parker, manager, and Melea Rivera, health policy specialist, represented the department.

In response to a question by Co-Chair Roeding, Ms. Parker stated that the 2008 General Assembly amended

the statutes pertaining to the standard plan and those changes necessitated corresponding modifications to this administrative regulation.

806 KAR 17:310. Prompt payment of claims reporting requirements.

In response to a question by Co-Chair Roeding, Ms. Parker stated that this administrative regulation did not add new requirements regarding purchasing dental insurance but it did clarify the requirement for prompt payment of dental claims.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a statutory citation; and (2) to delete requirement language from the NECESSITY, FUNCTION, AND CONFORMITY paragraph. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:360. Prompt payment of claims.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a statutory citation; and (2) to delete requirement language from the NECESSITY, FUNCTION, AND CONFORMITY paragraph. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:370. Standardized health claim attachments.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a statutory citation; (2) to delete requirement language from the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and (3) to amend Sections 1 and 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:050 & E. Certificate of need administrative regulation. Carrie Banahan, executive director, and Joni Cracraft, staff advisor, represented the office.

Senator Tapp stated that he had been waiting six (6) years for this administrative regulation.

Representative Weston stated that this administrative regulation would assist with the needs for hospitals in adjacent counties as well as the county where the hospital will be located.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 7, 8, 12, 15, 17 to 20, 23, 24, 27, and 29 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Public Health: Food and Cosmetics

902 KAR 45:150. School sanitation.

Guy Delius, acting director, and Vonia Grabeel, supervisor, represented the department.

In response to a question by Representative Ford, Mr. Delius stated that this amendment applied tiering to smaller, parochial schools and did not make it harder for schools to comply with the school sanitation requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, and 3 to 11 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to create a new Section 11 to incorporate by reference the required School Inspection Report form. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Medicaid Services

907 KAR 1:026. Dental services. Stuart Owen, regulation coordinator, represented the department.

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

907 KAR 1:626. Reimbursement of dental services.

907 KAR 1:911E. Repeal of 907 KAR 1:013.

Department for Community Based Services: Child Welfare

922 KAR 1:360 & E. Private child care placement, levels of care, payment. Elizabeth Caywood, policy analyst, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correctly reference the 2008 budget bill, 2008 Ky. Acts ch. 127, Part 1, H.10(3); (2) to amend Section 5(2) to clarify how the index factor for median levels of care were established; and (3) to amend Sections 1 through 6, 11, and 12 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the October 14, 2008, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: State Board of Examiners and Registration of Landscape Architects: Board

201 KAR 10:050. Fees.

Kentucky Board of Certification of Alcohol and Drug Counselors: Board

201 KAR 35:080. Voluntary inactive status.

INDEPENDENT ADMINISTRATIVE BODIES: Kentucky Board of Emergency Medical Services: Board

202 KAR 7:330 & E. Requirements

for examination, certification, and recertification of the advanced emergency medical technician.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:200. Comprehensive sex offender presentence evaluation procedure.

Department of Kentucky State Police: Criminal History

502 KAR 30:060. Dissemination of criminal history record information.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

School Terms, Attendance and Operation

702 KAR 7:130 & E. Approval of innovative alternate school calendars.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Thoroughbred Racing

810 KAR 1:012. Horses.

810 KAR 1:015. Claiming races.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Secretary: E-Health

900 KAR 7:020. Kentucky e-Health Corporation.

Office of Inspector General: Controlled Substances

902 KAR 55:030. Schedule IV substances. Stephanie Brammer-Barnes, policy analyst; Sadiqa Reynolds, inspector general; and Dave Sallengs, manager, represented the office.

In response to questions by Co-Chair Damron, Ms. Reynolds stated that stakeholders were aware that the office did not plan to defer this administrative regulation and that Arkansas also classified Tramadol as a scheduled drug.

Co-Chair Roeding stated that Tramadol was abused and has withdrawal effects. He further stated that, in 2005, emergency room treatment pertaining to Tramadol indicated a problem and that Kentucky was the leading state in prescription drug abuse. He was concerned, though, about involvement and communication during the amendment process.

In response to a question by Co-Chair Damron, Ms. Reynolds stated that the United States Drug Enforcement Agency and the Legislative Research Commission Program Review and Investigations Committee recommended scheduling Tramadol and that pharmacists' statistics also indicated a problem.

Senator Tapp stated that members of the subcommittee needed more advanced notice of the issues raised by this administrative regulation.

Co-Chair Roeding stated his agreement with Senator Tapp and stated that numerous professional boards and associations, as well as law enforcement agencies, the Justice and Public Safety

Cabinet, and lobbyists supported the scheduling of Tramadol.

A motion was made and seconded to defer consideration of this administrative regulation until the subcommittee's October meeting. Ms. Reynolds stated that the department would agree to defer this administrative regulation. Without objection, and with agreement of the agency, this administrative regulation was deferred.

The Subcommittee adjourned at 11:30 a.m. until October 14, 2008.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

September 11, 2008

The Program Review and Investigations Committee met on Thursday, September 11, 2008, at 10:00 AM, in Room 131 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 Reginald Meeks, Co-Chair; Senators Charlie Borders, Vernie McGaha, Joey Pendleton, Dan Seum, Brandon Smith, and Katie Stine; Representatives Dwight D. Butler, Ruth Ann Palumbo, Rick Rand, Arnold Simpson, and Ken Upchurch.

Guests: Michael Miller, Director, Division of Curriculum, Kentucky Department of Education. Mark Dennen, Kentucky Heritage Council Acting Executive Director and State Historic Preservation Officer. Dr. Fred E. Coy, Jr., Co-author of Rock Art of Kentucky. Dr. George M. Crothers, Director of William S. Webb Museum of Anthropology and Office of State Archaeology, University of Kentucky. Michael French, Senior Archaeologist Project Manager, AMEC Earth & Environmental, Louisville. Dr. David Pollack, Site Protection Program Administrator and Director of the Kentucky Archaeological Survey, Kentucky Heritage Council. David M. Waldner, Director, Kentucky Transportation Cabinet's Division of Environmental Analysis.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Rkia Rhrib; Tara Rose; Cindy Upton; Stella Mountain, Committee Assistant; Program Review and Investigations Committee Staff. Mike Clark, LRC Staff Economist.

Upon motion made by Senator Pendleton and seconded by Senator McGaha, the minutes of the August 14, 2008 meeting were approved by voice vote, without objection.

Senator Harris noted that a representative of the Kentucky Department of Education (KDE) was present to address questions raised at the August 14 meeting at which the report on school textbooks was approved.

Michael Miller said that a role of the Division of Curriculum is to organize

the Textbook Commission and the selection of textbooks that are eligible to be placed on the State Multiple List. He said schools are not required to report to the division as to which textbooks they purchase. Mr. Miller said that concern was raised at the committee's August 14 meeting that some students do not have their own copies of textbooks for homework or study purposes. He noted high school textbooks are funded through local funds or other sources, not state appropriations.

Senator Seum said that he had raised questions about textbooks because he knew of a school in Jefferson County in which students must share textbooks and homework has to be divided over two days. A high percentage of the school's students do not have home computers, so online access to books would not help. He asked why they cannot have textbooks for these students.

Mr. Miller said those decisions are made locally. He said that textbooks used by students on a rotating basis can be efficient, for long-term projects and for certain content areas where textbooks are rarely used, but that the lack of textbooks can cause frustration in other cases.

Senator Seum asked whether the state has any control over this.

Mr. Miller replied that the state appropriates no money for high school textbooks.

Senator Seum asked whether KDE gives districts guidelines concerning textbooks.

Mr. Miller said the State Textbook Commission produces a list of textbooks that meet the Kentucky standards. Districts may choose to not purchase from that list, in which case they need to submit an off-list notification form.

Senator Stine repeated her question from the August 14 meeting about the relationship between textbook publishers and ACT/SAT publishers. She asked whether it was possible that high performing schools based on those tests are using textbooks from the same companies that create the tests. This would mean that students are learning what they need to answer the test questions.

Mike Clark said that, to his understanding, ACT and SAT are independent, nonprofit organizations and are not affiliated with the publishers. He said some of the publishers develop assessments though.

Senator Stine asked whether McGraw-Hill is an example and whether there is a correlation between publishers of textbooks that are selected and assessments.

Mr. Clark replied that McGraw-Hill is a major publishing company that develops a number of assessments. He said the Textbook Commission chooses textbooks that match the requirements that Kentucky is expecting educators to meet, so there would be a correlation between

what was covered in the textbooks and what was covered on assessments.

Senator Harris asked whether there is any state appropriation for middle and elementary schools.

Mr. Miller said that there is an appropriation for kindergarten through eighth grade textbooks.

Senator Harris asked whether Mr. Miller knew how many classrooms had widescreen televisions and other technology for instructional purposes.

Mr. Miller said that he did not know but would provide the information.

Senator Seum suggested a program in which parents would pay a fee upfront to rent textbooks for the year and would get their money back if books are returned.

Representative Meeks introduced the presentations on preservation of Kentucky's cultural resources by noting that the Commonwealth has more preserved sites of antiquities than any other state and a nationally known staff who are called upon to be resources for other states.

Mark Dennen, the acting Executive Director and State Historic Preservation Officer with the Kentucky Heritage Council, gave a PowerPoint presentation about the Heritage Council and its role in helping to protect and preserve Kentucky's historic and cultural resources.

Mr. Dennen said the National Historic Preservation Act (NHPA) of 1966 established the Section 106 process, the National Register of Historic Places, and provided a federal-state framework for creating state historic preservation offices. This led to the creation of the Kentucky Heritage Commission in 1966, later renamed the Kentucky Heritage Council.

He said the council's concept of historic preservation has changed over time. Its original focus was on single buildings, but has evolved to include main streets, roadside architecture, prehistoric and historic archaeological sites, and cultural and rural landscapes. Within state governments, state historic preservation offices, (SHPO), are organized differently depending on the state. The Kentucky Heritage Council is an agency of the Tourism, Arts and Heritage Cabinet. It has 20 professional staff in many disciplines. The SHPO is the official federal liaison regarding historic preservation in the state.

Mr. Dennen said the Heritage Council's efforts are focused in three program areas: site protection, site identification, and site development. Site protection includes Section 106 review, which requires that all federally funded, licensed, or permitted projects are reviewed by the State Historic Preservation Office to determine their effect on and potential threats to historic properties. It also includes the agency's archaeological component and the Kentucky Archaeological Survey, a partnership of the Heritage Council and the University of Kentucky

Department of Anthropology.

According to Section 106 of the NHPA, the goals of the Section 106 review process include identification, which is to determine if historic structures or archaeological sites over 50 years old are located within a project's area of potential effect; evaluation, to determine if historic structures or archaeological sites listed in or eligible for listing in the National Register of Historic Places will be adversely impacted by a project; and mitigation, to avoid or minimize adverse effects to significant historic structures or archaeological sites. If mitigation is not an option, it is determined how the adverse effects to these properties will be addressed, either through recording or documenting them or by excavation.

Site identification coordinates statewide surveys and maintains a comprehensive GIS inventory of prehistoric and historic sites located throughout the state. The division coordinates planning for agency programs and statewide preservation efforts, and nominates sites to the National Register of Historic Places.

Mr. Dennen said Kentucky has the fourth highest number of National Register listings, more than 3,200, encompassing 41,000 districts, sites, and structures. Kentucky also has 30 National Historic Landmarks, many of them being archaeological sites. More than 94,000 prehistoric and historic sites and historic structures have been surveyed in all Kentucky counties through the Heritage Council's survey initiative.

Site development oversees education and training, incentives, and technical and design assistance to encourage protection of and investment in historic places. This includes administration of federal and state tax credit programs, the Kentucky Main Street Program, and educational programs including training in traditional craftsman and preservation arts.

Mr. Dennen continued by saying that the Kentucky Heritage Council initiated the Kentucky Main Street Program in 1979 and it is one of its most successful programs. Today the council works with more than 100 communities and they are the oldest Main Street Program in the nation. He described the benefits of preserving historic buildings in downtowns.

He said Kentucky has successfully utilized the federal historic rehabilitation tax credit program for many years, and the first round of Kentucky state historic preservation tax credits, which he described, were awarded in 2006.

Mr. Dennen said the agency continues to emphasize diverse cultures' contributions to Kentucky's history. Heritage Council programs include providing staff and technical assistance to the Kentucky African American Heritage Commission, the Kentucky Native American Heritage Commission, the Underground Railroad Advisory Council, and the Kentucky Military Heritage Commission.

Mr. Dennen said that 23,000 archaeological sites with evidence of early native cultures have been recorded, and only 4% of the state has even been surveyed.

Mr. Dennen mentioned that looting of prehistoric sites continues to be a serious problem, and he gave examples. In the case of Indian Head Rock, last fall a group from Portsmouth, Ohio, pulled the rock from the Ohio River near South Shore in Greenup County. Three men have been indicted by a grand jury and more indictments are expected.

Mr. Dennen said that existing legislation establishes public policy regarding the preservation of archaeological sites and objects of antiquity. The Federal Antiquities Act makes it a felony to disturb or destroy archaeological sites on public lands without a permit. The State Antiquities Act prohibits the willful damage or destruction of archaeological sites on lands owned or leased by the state, state agencies, counties, or municipalities. The act requires anyone who discovers a site to report it to the University of Kentucky Department of Anthropology. The Kentucky Cave Protection Act makes it illegal to disturb or damage cave surfaces or materials found inside caves, including archaeological remains. It is a misdemeanor to violate sections of these acts.

Mr. Dennen said there are thousands of burial grounds and cemeteries around the state; some are known to the local communities and some are unidentified. Many cemeteries are inadvertently discovered during construction, projects which could be avoided if developers would routinely check with local historical societies and planners before initiating projects.

Senator Harris asked whether the 94,000 identified sites are prehistoric sites.

Mr. Dennen said that they are sites of all kinds, prehistoric and historic, archaeological and built.

Senator Harris asked how a site is defined and whether a site could be as simple as finding a few arrow heads on a farm, which could be evidence of an Indian village.

Dr. David Pollack, Site Protection Program Administrator and Director of the Kentucky Archaeological Survey, Kentucky Heritage Council, said that of those 94,000 sites, 70,000 of them are buildings. There are 24,000 archaeological sites that would be potentially important sites but not every site is considered to be significant. He said the site described by Senator Harris has potential and could be significant.

Sen. Harris asked whether there was a Web site that lists National Register of Historic Places by county.

Dr. Pollack said that the National Register of Historic Places has a Web site that lists by state, but without much detail. The Kentucky Heritage Council can provide more information like descriptions, photographs, and the reasoning

for the listing in the National Register.

Representative Simpson asked whether cost is taken into account when making decisions about moving historic structures. He referred to the 12th Street project in Covington in which two structures were being relocated at high cost. He said funds could be better employed to provide roadway improvements, given that Kentucky's road funds are low.

Mr. Dennen replied that cost is taken into account. The costs of preservation, rehabilitation, or relocation of the structure are balanced against losing a structure. He said that for the 12th Street Corridor, buildings are being relocated to preserve as examples of the neighborhood.

Dr. Pollack said that for the project, the Heritage Council, the Kentucky Transportation Cabinet, the Federal Highway Administration, and agencies paying for it must come to an agreement as to all the different components involved, and price is taken into consideration.

Representative Simpson said that he thought the system was broken. He said that he has been a resident of that neighborhood for most of his life, he knows the structures, and the cost of relocation was not justified.

Representative Butler asked how trading and trafficking in Native American artifacts is regulated.

Dr. Pollack replied that if they were obtained illegally, it is still illegal to trade in them. If artifacts are obtained legally, there are no penalties. If an artifact was obtained illegally and it is taken across state lines, it becomes a federal offense.

Representative Butler asked how they determine that. For example, an artifact might have been in someone's family for years or it came from a site that was not correctly handled.

Dr. Pollack replied that is part of the problem for law enforcement, proving that something was obtained illegally.

Representative Meeks asked Dr. Pollack to explain what is allowed on private property relating to the collection of items and what is required of the property owner.

Dr. Pollack said it is permissible to surface collect on private property with the permission of the landowner, which can include looting an archaeological site as long as one does not encounter burials. He said Representative Meeks has been involved with legislation to better regulate this.

Senator Seum asked whether the two buildings moved in the Northern Kentucky road expansion were designated historic buildings prior to the project.

Mr. Dennen replied that they had been part of a national registered district.

Dr. Pollack noted that the agreement to move the buildings was signed about 8 to 9 years ago.

Senator McGaha asked whether there is any liability to real estate com-

panies or auctioneers who would auction off artifacts, not knowing whether they have been excavated in a legal manner. He asked whether there is a liability if someone from another state purchases one and takes it across state lines.

Mr. Dennen said it is a difficult question because it depends on the strength of the laws and how one prosecutes the laws and what evidence there is.

Senator McGaha suggested that the intent could play a role in how this was interpreted. If someone at an auction buys something, the intent is not to do anything illegally but rather to legally purchase something.

Dr. Pollack said he would suspect that that person would not be charged if he cooperates with law enforcement and helps law enforcement track down the guilty person.

Mr. Waldner, the Director of the Division of Environmental Analysis for the Kentucky Transportation Cabinet, said the cabinet conducts surveys for historic properties, both above ground structures and archaeological sites, on any project in which there is federal involvement. The objective for all the building projects is to identify historic and archaeological resources as early as possible to accomplish avoidance. When avoidance is not feasible or cannot be achieved, and a project results in an adverse effect to a historic property, mitigation of the effect is required. The mitigative measures are determined in consultation among parties, including the Transportation Cabinet, Federal Highway Administration, Kentucky Heritage Council, and if they choose to participate, the Advisory Council on Historic Preservation. Mitigation costs range from thousands to millions of dollars.

Mr. Waldner said the cabinet also manages the Transportation and Enhancement Program that makes millions of dollars available to local communities. Many of these funds are used to restore and improve historic properties.

Representative Simpson asked how they define historic properties.

Mr. Waldner said that U.S. Department of the Interior's regulations outline how historic properties are determined. The cabinet has historic preservation professionals that determine whether or not properties within an area of influence of a project might be considered historic. That information is coordinated with the Kentucky Heritage Council and it is then determined whether a structure meets those standards for being considered eligible for the National Register and if so, then the Section 106 protection measures are enforced.

Representative Simpson asked to be provided with a copy of a definition of historic properties if possible.

Dr. Crothers said the Office of State Archaeology keeps the state records on registered archaeological sites and issues permits for archaeological work or collecting artifacts on state, county, or mu-

nicipal land. The office is also involved in administering the Cave Protection Act, which prohibits collecting archaeological or paleontological materials from cave sites. He said the office is responsible for locating historic and prehistoric sites and identifying them. They issue about 600 new archaeological site numbers per year and process about 400 new surveys, which entails identifying standing historic structures and identifying archaeological resources. In cooperation with the Kentucky Archaeological Survey, location information recently has been digitized and is in a geographical information system. Because of looting problems and of landowner private property concerns, the locations of archaeological sites are not available to the general public.

Dr. Crothers said that his office has to respond to calls when discoveries are made during construction. He added that the entire staff of the Office of the State Archaeology is 0.7 people, consisting of himself at 30% of his job duties and one assistant director at 40% of her job duties.

Representative Meeks asked whether it is usual for a state to have 0.7 people responsible for all the duties and how are the other states structured.

Dr. Crothers said that it varies by state. In a number of states, the state archaeologist is with a university. There is usually some state appropriation for the office, which varies. Some offices have a staff of 50 but that would include people who do the mitigation and excavation.

Dr. Coy said that his interest in petroglyphs and pictographs of the American Indians was initiated 45 years ago when he was unable to locate much information on reported finds in Kentucky. He found only 16 sources that mentioned a petroglyph that had been made prior to that time. Now in conjunction with the State Archaeologist and the Kentucky Heritage Council, more than 70 rock art or petroglyph sites have been recorded in the state; 62 of them are on the National Register, and these may be found online. About 12 years ago, the Heritage Council published his book, which describes 62 of the rock art sites in Kentucky.

Dr. Coy said that the study of petroglyphs and pictographs has developed into a scientific discipline. He distributed a handout listing problems involved in trying to save petroglyph sites. He said that educating the public will help.

Dr. Pollack said that the Kentucky Archaeological Survey, jointly administered with the Department of Anthropology at the University of Kentucky, does a great deal of public education. Grade school students go through several of their programs. They also produce educational materials. They have completed a video series that can be viewed online. They also produce curricula for schools and offer teacher workshops under the national Project Archaeology program.

Another part of his office's duties is to deal with cemeteries that are being impacted inadvertently by construction. He said they do not have anybody who is solely dedicated to responding to such calls and the number of calls their office receives is increasing.

Senator Stine asked Dr. Pollock whether he knew if the Attorney General's Office has some oversight of cemeteries.

Dr. Pollack said that he knows they often assist people with ingress and egress, and that they also enforce the cemetery laws that say that the person who owns a cemetery is responsible for maintaining it.

Mr. French said that consulting firms that actively do archaeological investigations perform a full range of cultural resource services. The companies are hired, for example, by the Kentucky Transportation Cabinet to identify what known and previously owned cultural resources, whether archaeological sites or standing structures, might be located within a project area. They also make assessments whether or not they believe additional research is warranted, and whether or not sites are significant. They always operate in consultation with the archaeologist on staff of the agency they are working for.

Representative Meeks asked how many consultants there are in Kentucky.

Mr. French said there are about 100. There are four or five major firms. At AMEC they have 30 full-time employees on staff in Kentucky, and about another 100 on-call seasonal employees who help with projects during the summer-time.

Representative Meeks asked whether some of these consultants could respond to some of the needs and calls for preservation that the state is getting.

Mr. French replied that most archaeologists will volunteer and help out as needed but it would really be difficult for a private consultant dedicated to full-time work to do that.

Senator Harris announced that the next committee meeting is on October 9, with a scheduled report on reentry of felons into society on the agenda. He asked staff to pass out the list of suggested study topics that have been received.

He asked for a moment of silence in recognition of victims of the terrorist attacks in New York and Washington D.C. in 2001.

The meeting was adjourned at 11:50am.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

October 9, 2008

The Program Review and Investigations Committee met on Thursday, October 9, 2008, at 10:00 AM, in Room

131 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; Senators Charlie Borders, R.J. Palmer II, Joey Pendleton, Dan Seum, and Katie Stine; Representatives Dwight D. Butler, Ruth Ann Palumbo, Rick Rand, Arnold Simpson, and Ken Upchurch.

Legislative Guest: House Speaker Jody Richards.

Guests: Kimberly Potter-Blair, Deputy Commissioner for Support Services; Al Parke, Deputy Commissioner for Adult Institutions; James Van Nort, Assistant Director of the Division of Mental Health; Lee VanHoose, Director of the Division of Probation & Parole; Mavis McCowan, Pre-release Coordinator; Wendy Hayden, Branch Manager for Home Incarceration Program and Re-Entry Efforts; Department of Corrections.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Jim Guinn; Christopher Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Tara Rose; Cindy Upton; Stella Mountain, Committee Assistant.

Upon motion made by Senator Pendleton and seconded by Senator Palmer, the minutes of the September 11, 2008 meeting were approved by voice vote, without objection.

Senator Harris asked Representative Simpson to speak in memory of Representative Larry Belcher.

Cindy Upton presented the report Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed.

Ms. Upton said that the study had two major objectives: describing the Kentucky probation and parole system and the current process for returning and reintegrating incarcerated felons into local communities; and evaluating the effectiveness of the current process for returning and reintegrating felons into local communities.

Ms. Upton said that the report has two major conclusions. The first is that the Department of Corrections' reentry programming should be strengthened. The formal reentry program is not offered consistently among prisons and is not available in jails. Department staff who present the program have additional job responsibilities. The department should dedicate staff to work only on reentry programming and to provide individual assistance to persons who need it. Staff also should be dedicated to work with employers, housing owners and providers, and other providers of services to identify specifically where a released felon may be able to get a job, find a place to live, and/or obtain substance abuse or mental health treatment. These efforts will smooth people's transition from prison to the community.

The second major conclusion is that the only outcome measure the department currently reports is the recidivism

rate. The department should measure and report outcomes of the programs and services provided to convicted felons. The department provides work programs; academic, vocational, and technical education; sex offender treatment; and substance abuse programs. Information on inmates who use these programs and services is not entered in the Kentucky Offender Management System. Thus, the department is unable to measure and report systemwide outcomes of its programs.

She said that the Department of Corrections, which is responsible for incarcerating persons convicted of felony offenses, operates 13 state prisons and contracts with Corrections Corporation of America to operate 3 additional prisons. The department also contracts with 75 local jails to house certain minimum custody inmates and is responsible for supervising persons released on probation and parole.

Ms. Upton said that from Fiscal Year 1998 to Fiscal Year 2008, annual admissions to the department's custody increased 86 percent and annual releases increased 146 percent. During FY 2008, on average 42 persons were admitted and 46 released each day. The 16,915 persons released in FY 2008 had been convicted of committing more than 38,000 felonies, nearly one-third of which were for violations of Kentucky's controlled substances statute. About one-fourth of the convictions were for burglary and theft.

Ms. Upton said that the department's information system, called the Kentucky Offender Management System (KOMS), has been in use since May 2007. It has not been fully implemented, much information is not routinely entered into the system, and local jails do not have the ability to add information to it. The department requested funding to finish the programming for the system, but the request has not yet been approved.

Ms. Upton continued that from FY 1998 to FY 2008, 71 percent of people entering prison had been convicted of committing new felonies, and 27 percent for violating the conditions of their probation or parole. In FY 2008, of the persons entering prison, 83 percent were male; 72 percent were Caucasian and 26 percent were African American; 70 percent were 21 to 40 years old; and 72 percent were single, divorced, or separated. Nineteen percent had graduated from high school, 41 percent had not, and the educational status was unknown for 33 percent.

Under the provisions of state law, most persons convicted of a Class D felony and some convicted of a Class C felony will serve their sentences in local jails. The proportion of inmates in county jails increased from 23 percent in FY 1998 to 34 percent in FY 2008. In FY 2008, 67 percent of releases were persons who had been convicted of Class D felonies. This affects post-release success because more programming is avail-

able in prisons than in jails.

Ms. Upton said that Program Review staff asked the department for the number of state inmates with jobs and program assignments, but the department was unable to provide this information because it is not routinely entered into KOMS.

Staff's recommendation 3.1 is that the department should enter each inmate's job and program assignment in KOMS and update the information when an inmate's work or program status changes.

Ms. Upton said that from FY 2004 to FY 2008, inmates earned more than 4,400 vocational and technical certificates and more than 1200 diplomas, but the department was unable to determine how many persons earned them.

Recommendation 3.2 is that the department should enter each inmate's educational achievements in KOMS and update the information when an inmate's educational status changes.

Ms. Upton said the department offers a Substance Abuse Program, but the number of inmates who qualify exceeds the department's ability and resources to serve them. The department was unable to provide the number of persons who had completed the program.

Recommendation 3.3 is that the department should enter each inmate's acceptance into the Substance Abuse Program in KOMS and update the information when the inmate completes or exits the program, including the reason for exiting the program.

Ms. Upton continued by saying that KRS 197.400 requires the department to provide a Sexual Offender Treatment Program for persons convicted of sex crimes defined in KRS Chapter 510. Sexual offenders on probation or five-year conditional discharge are required by KRS 532.045 to complete and pay for a community-based treatment program. She said the number of Sexual Offender Treatment Program completions is low compared to the number of persons incarcerated for sexual offenses. Since 2001, the number of sexual offenders has increased on average 5 percent each year. Program Review staff asked the department for the recidivism rate for sexual offenders, which is required by KRS 197.420. The department was unable to provide the information.

Recommendation 3.4 is that the department should enter each inmate's acceptance into the Sexual Offender Treatment Program in KOMS and update the information when the inmate completes or exits the program, including the reason for exiting the program.

She said that prison inmates have an opportunity to attend a pre-release program, commonly known as "Prison to the Streets." Typical subjects include preparing for job interviews, how to fill out job applications, resume writing, stress management, housing options, and utilizing community resources. The

components of the program vary among institutions in terms of content and duration. Some prisons spend 16 to 20 hours on reentry programming; others spend only 1 to 5 hours. The program typically is not available to state inmates in jails.

Recommendation 3.5 is that the department should require the use of a standardized reentry program that focuses on a person's community knowledge and skills to enable released felons to reenter society as smoothly as possible. The program should be of sufficient duration to ensure adequate coverage of required topics and should be offered in all prisons and county jails that house state inmates.

Ms. Upton continued that one-third of convicted felons return to prison within 2 years from being released, which includes people returning to prison because of new felony convictions and technical violations of the conditions of probation or parole.

Ms. Upton said that from FY 2007 to FY 2008, releases increased by 21 percent. The number of releases is likely to increase because of provisions in HB 406 of the 2008 regular session of the General Assembly. As of September 11, 2008, 1,416 felons had been released in accordance with the temporary provisions of HB 406.

Ms. Upton said that HB 683 of the 2008 regular session added two full-time Parole Board members and allows the board to conduct file reviews of certain Class C felons eligible for parole without holding a formal hearing.

Ms. Upton said offenders released to community supervision are classified into a supervision level based on their probability for additional criminal activity. In FY 2008, on average, 13 percent of cases were classified as high risk, 46 percent were moderate risk, 23 percent were low risk, and 11 percent were on administrative level of supervision. On average, 680 new offenders entered the system each month awaiting classification.

Ms. Upton continued that some persons convicted of felony offenses serve part of their sentences on home incarceration. In FY 2008, 1,093 offenders were released to home incarceration.

Persons being released from incarceration face a number of challenges. Some challenges relate specifically to the type of felony conviction. Compounding the problems, the department has no statewide system for easing the transition from prison to the community. A probation or parole officer may help individuals, but with an average caseload of 94 persons, the amount and quality of that help vary.

Challenges include obtaining mental health and substance abuse treatment; finding suitable housing and dealing with additional housing barriers for sexual offenders; finding employment, even if the released felon has a trade or job

skill; obtaining transportation because the released felon's operator's license may have expired or been suspended; paying court-ordered restitution, fines and fees; and trying to get voting rights restored. She said that some challenges are similar to those faced by much of the population but some are not. For example, persons with substance abuse convictions may be unable to obtain federal education grants, loans, or work assistance. Many restrictions are imposed for housing assistance for ex-felons. Some statutes for occupations and professions preclude felons from having licenses and certificates or from being employed.

Ms. Upton said incarcerated felons would benefit from individualized pre-release and post-release assistance. However, each prison conducts its own version of the department's reentry program, and felons housed in county jails receive little or no reentry programming. This system not only fails to meet certain inmates' needs, but it also increases pressure on probation and parole officers. Incarcerated felons would benefit from more and better-coordinated academic, vocational, and technical programs. Waiting lists for education and training prevent some inmates from participating, although when inmates participate, they later find that many employers will not hire convicted felons. Individualized assistance and more programming may require additional resources for a time; however, the department should later realize savings from reduced recidivism.

Recommendation 4.1 is that the department should dedicate staff at each prison and staff to work with local jails to provide individualized assistance to persons with significant pre-release and post-release needs. The assistance should include interaction with community providers to ensure that necessary services are available to released felons.

Recommendation 4.2 is that the department should dedicate staff to contact potential employers across the state, assess the vocational and technical skills their employees must have, and encourage employers to hire released felons who have those skills. The department should provide appropriate training to inmates, encourage inmates to participate in it, and inform inmates of employers who have expressed a willingness to hire them.

Ms. Upton concluded with an overview of research on the effectiveness of types of reentry programs and reentry programs in other states.

Senator Harris asked whether there is any commonality among prisons in their pre-release programs that are offered across the system or whether each prison has to come up with its own program and they are on their own.

Ms. Upton said there is a group of topics, which normally covers things like filling out a job application and writing a resume. She said the most commonly covered topics, especially for the shorter

programs, deal more with the conditions of parole supervision.

Representative Palumbo asked for clarification of technical parole violations.

Ms. Upton said that technical violations were for behaviors that would not be against the law otherwise, but were violations of the conditions of parole, such as drinking alcohol.

Representative Palumbo asked about percentages not accounted for on the slide on reasons for release.

Ms. Upton replied that 5 percent absconded and 2 percent were released for other reasons.

Representative Palumbo asked for clarification on how little opportunity prison staff have to work with individuals who are going to be released.

Ms. Upton said that she was not aware of a single prison that has one person whose only task is working with people who are going to be released.

Senator Stine asked why the requirement in KRS 197.420 (6) that the department report the recidivism rate for sex offenders was not being met.

Ms. Upton said that staff had not been able to get that information.

Senator Seum gave an example of someone who had committed a felony a long time ago and has since finished nursing school and is looking for a job. He asked whether state law prohibited her from working in a nursing home or other health care facility.

Ms. Upton said that prohibitions apply to nursing home-type facilities and that it would depend on the felony.

Representative Butler asked for more details on the Arizona program described in the report.

Ms. Upton said that she could get more information for him.

Representative Upchurch asked whether statistics were available on which other felonies committed were drug related.

Ms. Upton said that the data used in the report would not indicate this.

Senator Harris asked about the implementation of KOMS and when it would be fully operational.

Ms. Potter-Blair replied that it should be completed within two years.

Senator Stine repeated her question as to why the requirement in KRS 197.420 (6) that the department report the recidivism rate for sex offenders was not being met.

No one from the department could explain why the statute was not being met.

Representative Butler enquired about treatment programs in the prisons.

Mr. Parke replied that treatment is performed in a group format of about 8 offenders per group. The prison and community programs try to accept and take in as many sex offenders as possible. When they complete the treatment program in a prison, anyone convicted

after 1998 has a 3-year conditional discharge, or if after 2006, a 5-year conditional discharge. They then re-enroll in a treatment program in the community with some adaptations necessary for the community. The department assists as best as possible with finding work and locating housing.

Representative Butler said that his understanding was that there were waiting lists for programs and asked whether more staff were needed.

Mr. Parke replied that more resources would be useful. Some prisons do have a waiting list, others do not, so that becomes a transfer issue to try and distribute some inmates to other facilities.

Representative Simpson commented that he did not understand why the statutory mandate noted by Senator Stine has been ignored.

Dr. Van Nort said he did not know where the system broke down or who stopped collecting data.

Representative Simpson requested that the department report back to the committee about this breach of responsibility. He asked for members from the department present to comment on each recommendation made in the report by LRC staff.

Senator Harris asked LRC staff to prepare a letter for the co-chairmen to sign that would direct a response from the Department of Corrections by the next committee meeting on the issue raised by Senator Stine and Representative Simpson as to why KRS 197.420 (6) is not being followed.

Senator Seum asked whether plumbing and electrical is taught in the prisons.

Mr. Parke replied that they are in a few institutions.

Senator Seum asked whether a person can get a license if he completes such training in the prison system, and whether he can work in the trades.

Mr. Parke replied that if the trades will accept that person, he can go to work.

Senator Seum asked whether they are prohibited for some reason.

Mr. Parke said that to his knowledge they are not prohibited, but would depend on the trades.

Senator Seum expressed his concern about all the stumbling blocks for people coming out of prison.

Senator Harris asked for comments by Department of Corrections staff on the recommendations.

Ms. Patter-Blair said they agree with recommendations 3.1, 3.2, and 3.3, and will implement the changes into the Kentucky Offender Management System as funds are available.

Mr. Parke added that KOMS needs to be completely developed before that data can be entered and collected.

Ms. Patter-Blair agreed with recommendation 3.4 and said that they are already collecting that data in KOMS.

Ms. McCowan, responding to Rec-

ommendation 3.5, said that "Prison to the Streets" has a standardized shell that all of the institutions are required to utilize. Some institutions have the opportunity to enhance the program. The department is going to make sure that this is standardized in every institution.

Mr. Parke said that they have started developing a model for the re-entry program that will start when the offender enters the prison system. It will be the major initiative to help prevent inmates from returning to prison. The department has just appointed a branch manager for reentry. He commented that the Department of Corrections cannot do this by itself but it will have to collaborate with other state agencies.

Ms. Patter-Blair said they accept recommendations 4.1 and 4.2. They currently do the home incarceration program, but they need to help released persons more in obtaining state identification. At present the classification and treatment officers under the home incarceration program are negotiating with different employers to hire convicted felons but a greater community effort needs to be made.

The report Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed was accepted upon motion by Representative Simpson and seconded by Representative Rand, without objection by roll call vote.

Representative Rand asked whether privately run facilities use a different information management system than the state does.

Ms. Hayden said the private facilities use a different system but they are required to have an interface with KOMS or keep KOMS up to date.

Representative Rand asked whether their system is more advanced than KOMS.

Ms. Hayden said she did not think so.

Representative Simpson asked how important it is to the department to fund KOMS completely, how much they need, and whether they have asked for more funding.

Ms. Patter-Blair said it is important to fund KOMS and it has been requested in the past. She could not give the amount of funds still needed but could obtain that information.

Mr. Parke said that KOMS is recognized as one of the better offender management systems in the U.S.A. and once funding has been received to complete the system, it is probably going to be the best system in the United States.

Senator Harris said the committee looks forward to continue to work with the department and possibly looking at KOMS again in 2 years or so.

Senator Harris closed by saying that at the next meeting the committee could begin to choose topics it wants staff to review. Consideration should be given to having staff do substantial follow-ups to

previous studies on the Medicaid Management Information System and the highly skilled educator program.

The next meeting is scheduled for November 13.

The meeting was adjourned at 11:45am.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the Fifth Meeting of the 2008 Interim October 7, 2008

The fifth meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 7, 2008, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Hubert Collins, Chair; Senators Charlie Borders, David E. Boswell, Bob Leeper, R.J. Palmer II, Dick Roeding, and Damon Thayer; Representatives John A. Arnold Jr., Eddie Ballard, Leslie Combs, Tim Couch, Jim DeCesare, Keith Hall, Richard Henderson, Melvin B. Henley, Jimmie Lee, Charles Miller, Lonnie Napier, Sannie Overly, Marie Rader, Sal Santoro, Arnold Simpson, Ancel Smith, Jim Stewart III, Greg Stumbo, Tommy Turner, and John Vincent.

Guests Appearing Before the Committee: Pamela Roark Glisson, Executive Director, Independence Place, Inc.; Robert Strassburger, VP Safety & Harmonization, Alliance Automotive Manufacturer. Representing the Kentucky Transportation Cabinet were: Mike Hancock, Chief Highway Engineer, Todd Shipp, Sr. Counsel and Special Assistant, Dan Glass, Commissioner, and Willie Payton, Director, Division of Motor Vehicle Licensing, Doug Sutton, Assistant Director, Driver Licensing, and John Wilcoxson, Branch Manager, Pavement Branch, Division of Maintenance.

LRC Staff: John Snyder, Jim Roberts, and Linda Hughes.

Before opening the meeting to testimony, Chairman Collins asked for a moment of silence for State Representative Larry Belcher, a Committee member, who was killed in an automobile accident the night before.

Following the moment of silence and several members speaking on behalf of Representative Belcher, Representative Arnold moved to approve the Committee's August 5, and September 26, 2008 minutes, as submitted. Representative Miller seconded the motion, which passed by voice vote.

Deviating from the Committee's agenda, Chairman Collins referred the Committee's attention to Agenda Item VI., a review of Administrative Regulation 601 KAR 13:070, promulgated by the Transportation Cabinet. He stated that there were concerns voiced regarding this regulation and after meeting with

the Transportation Cabinet, the Cabinet had agreed to changes to 601 KAR 13:070. Chairman Collins said that he would therefore entertained a motion to defer the regulation to the Committee's next meeting in order to address these changes. Senator Roeding moved to defer Administrative Regulation 601 KAR 13:070. Representative Lee seconded the motion, which passed by voice vote.

The next item on the Committee's agenda was a presentation on the registration of low-speed electric and alternative vehicles, by Todd Shipp, Sr. Counsel and Special Assistant; and Dan Glass, Commissioner, and Willie Payton, Director, Division of Motor Vehicle Licensing, Kentucky Transportation Cabinet. Commissioner Glass said that the National Highway Traffic Safety Administration (NHTSA) defines low-speed vehicles as any 4-wheeled motor vehicle whose top speed is greater than 20 mph, but not greater than 25 mph. He said there are a number of states who have adopted the NHTSA standards, which also require head and tail lamps, as well as stop lamps; front and rear turn signals; red reflex reflectors; exterior/internal mirrors; parking brake; windshield; vehicle identification number; and seatbelts.

Commissioner Glass drew the members' attention to several motor vehicles that could pose difficulties when drafting legislation for low-speed motor vehicles. He stated that these vehicles were motorcycles, mopeds, golf carts, smart cars, Ateras, pocket bikes, spyders, and zap cars. He said that all of these cars have characteristics that could cause difficulties in crafting statutes that adequately define acceptable vehicles for highway use. In naming a few, Commissioner Glass said that some motorcycles now have what is called "training wheels" that are stationary on the bikes, changing that vehicle's characteristics from a 2-wheeled to a 4-wheeled vehicle; and mopeds, which are characterized as a motorized bicycle whose frame design may include one or more horizontal crossbar, has the same characteristics as a pocket bike, which the Cabinet states should never be allowed on state roads because of safety.

Commissioner Glass stated that last session's Senate Bill 93 defined golf carts as having a designed speed capable of not more than 35 mph, and restricted the operation of golf carts to roadways within five road miles of an entrance to a golf course, and increased their wheel requirements to a minimum of four wheels. Commissioner Glass cautioned the Committee that some individuals might interpret the NHTSA definitions of low-speed motor vehicles to include golf carts. He reminded the members that golf carts are not currently required to be titled or registered.

Commissioner Glass ended his testimony by saying that 40 states now have statutory authority for low-speed vehicles to operate on certain types of

roads, and that 32 states limit operation to roads with speed limits not exceeding 35 mph. He said that most of the states make explicit reference to these low-speed vehicles having to comply with the Federal standards.

Chairman Collins asked if the Cabinet had any accident statistics on these types of vehicles. Mr. Shipp stated that he did not, but would see that the Committee received that information.

Committee members raised several questions regarding golf carts operating on specified roadways where there were no golf courses within the regulatory five road mile radius. It was stated that some cities, without golf courses in their areas, have adopted city ordinances to allow for the use of golf carts on their city roadways. Mr. Shipp stated that he viewed these city ordinances to be in violation of state statutes, because the statutes state that golf carts are only allowed to travel on specified roadways that are within a five road mile radius of a golf course.

The next item on the Committee's agenda was a presentation on hybrid vehicle warning systems. Testifying before the Committee on this topic were Pamela Roark Glisson, Executive Director, Independence Place, Inc.; and Robert Strassburger, VP Safety & Harmonization, and Judith Taylor, Alliance Automotive Manufacturers.

Ms. Glisson stated that most visually impaired individuals operate by audible information processing. She said because hybrids are so quiet they cause safety issues not only to the blind population but to other individuals as well. Ms. Glisson stated that children are taught at an early age that when approaching a street corner to stop, look, and listen for traffic before stepping out to cross the street. She said that with the hybrid cars, the noise factor has been eliminated.

Ms. Glisson stated that according to a University of California, Riverside Press Release "hybrid cars operating at very slow speeds must be 40 percent closer to pedestrians than combustion-engine vehicles before their location can be audibly detected. Those findings have implications for pedestrians who are blind, runners, cyclists, small children, and others."

Mr. Strassburger stated that automotive industries, worldwide, are dealing with this dilemma. A dilemma he said that they did not foresee when developing the hybrid automobile. He said that for the last 30 years, the automotive industry has been researching ways to offer a quieter vehicle. As a matter of fact, he said that \$25 of the price of every new car sold today goes into the research for quieter cars.

Mr. Strassburger said that with the soaring gasoline prices, the industry responded by developing the hybrid automobile. However, with the development of hybrids came an entirely new problem,

the quietness, or lack of sound. The industry now finds itself, after 30 years of research for a quieter vehicle researching ways to add sound to their hybrid vehicles. He said that this in-depth research has been underway for the last year and results should be available in the next year to year and a half. Mr. Strassburger stated that the automotive industry understands the Federation for the Blind's concerns and is working diligently to address those concerns.

Representative Overly asked when the general public could anticipate this technology being incorporated into the hybrid automobile design. Mr. Strassburger stated that the research should be completed in another year to year and a half and then it would take another 18 months or so for that technology to be designed and installed into the hybrid automobiles. He said that there is no fast and easy solution to this problem and that it would take time correct.

Mr. Strassburger closed by repeating that the automotive industry is aware of the "lack of sound" problem with the operation of hybrid vehicles and is working diligently to correct the situation.

The last item before the Committee was the presentation on asphalt durability by Mike Hancock, Chief Highway Engineer, and John Wilcoxson, Branch Manager, Pavement Branch, Division of Maintenance, Kentucky Transportation Cabinet.

Mr. Hancock said that the percentage of interstate pavements in fair or better condition fell by 8 percent in 2007, the second largest drop in the past twenty years; while the parkway system improved by 18 percent during that same year. He said that pavements generally last 12 to 14 years between resurfacing treatments.

Mr. Hancock commented that with the price of asphalt skyrocketing, the Cabinet used 1 ¼ inch of asphalt for their resurfacing of roads last year, as opposed to the 1 ½ inches it had used in past years. He said while this saved about 1/6 of the tonnage used by the state, the increased cost of asphalt still raised the overall price the state paid last year to asphalt its roads. When asked, Mr. Wilcoxson stated that asphalt cost around \$70 per ton in competitive areas and as much as \$80 per ton in rural areas where there is no competition.

Representative Smith asked if the Cabinet practiced milling (adding a portion of old asphalt to the new asphalt mixture) when asphaltting. Mr. Hancock said yes that the Cabinet did practice this procedure. He said there was a percentage formula the Cabinet used for milling, but he did not have that information with him.

With no further business before the Committee, the meeting adjourned at 2:35 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

September 12, 2008

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Friday, September 12, 2008, at 8:30 AM, in the Weldon Room at the E.S. Good Barn at the University of Kentucky. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Carroll Gibson, Co-Chair; Representative Rick Rand, Co-Chair; Senator Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Dean Scott Smith, Dr. Nancy Cox, and Drew Graham, University of Kentucky; Roger Thomas, Joel Neaveill, Michael Judge, Angela Blank, Christi Marksbury, Todd Harp, Jennifer Hudnall, and Diane Fleming, Governor's Office of Agricultural Policy; Dennis Griffin, Wayne Hunt, Rodney Dick, Sam Lawson, and Troy Rankin, Agriculture Development Board; Dr. Jay Perman, M.D., University of Kentucky School of Medicine, Dr. Robert T. Means, Jr. M.D., Lewis Kelly, Ph.D.; Markey Cancer Center; John W. Eaton, Ph.D., Brown Cancer Center; Nick D'Andrea, University of Kentucky.

LRC Staff: Lowell Atchley, Stefan Kasacavage, Susan Spoonamore, and Kelly Blevins.

The meeting began with welcoming remarks by Dr. Scott Smith, Dean of the University of Kentucky, College of Agriculture. Minutes of the August 6, 2008 meeting were approved, without objection, by voice vote, upon a motion made by Senator Pendleton and seconded by Representative McKee.

The presiding chair, Representative Rand, asked Mr. Roger Thomas, Executive Director, Governor's Office of Agricultural Policy (GOAP), to report on the projects considered for funding during the August Agricultural Development Board (ADB) meeting. Accompanying him was Mr. Joel Neaveill, Chief of Staff, and Mr. Mike Judge, Director of Operations.

Mr. Judge reviewed the county model program list and the listing of state projects receiving funding approval and denied funding at the previous ADB meeting. Responding to a question from Representative Comer about the Chaney's Dairy Barn project, Mr. Judge said that, because Chaney's sought a second round of state funding, the board decided to approve the use of Warren County funds on the project, but not to award state funds, instead direct the applicant to other funding avenues.

Mr. Judge pointed out to Senator Gibson that a Jessamine County Fiscal Court project would provide a place for producers to safely and legally process their products. He gave examples of jam,

jelly, or salsa processors.

The \$50,000 Buffalo Trace Area Development District project aimed at hillside reclamation prompted Senator Gibson to ask about the use of federal funds in conjunction with the state tobacco settlement funds. According to the GOAP officials, federal funds could be used, but not as a part of the cost-share. Those applying for funds would be required to share the cost of reclamation work on a 50-50 basis.

Following the projects review, Chairman Rand recognized Senator Pendleton who asked about the rationale of the ADB's approval in June of \$200,000 in state funds for the Kentucky Agricultural Council (KAC) to coordinate, implement, and continue development of the "Strategic Plan for Agriculture" over a two-year period. According to the senator, the funding would lead to the creation of a new entity and a new level of bureaucracy.

Mr. Thomas gave some background on the creation of the plan, which was an outgrowth of the Task Force on the Future of Agriculture, and was made up of a number of agriculture-related groups. The KAC administered the task force using staff support from the GOAP and Department of Agriculture (KDA). According to Mr. Thomas, the KAC would continue to guide implementation of the plan. The agricultural development funds would be used to pay for professional services, interim management, administrative, and other expenses. He said there was hesitancy in having the group attached to the GOAP or KDA to not give the appearance of it being a political or state-driven effort.

The discussion revealed that applications were sought for an entity to take on the on-going project. Also, terms for the second year of funding call for the KAC to raise \$25,000 in member dues.

Senator Pendleton responded that he thought the GOAP and KDA were capable of seeing the project through. He asked about accountability if the project is not housed with the state executive bodies. He subsequently said he would have no problem with someone with the GOAP or KDA overseeing implementation of the project. But Mr. Thomas said the GOAP did not have the staffing available to carry forth the effort.

Following that discussion, Mr. Thomas turned to a recent Auditor of Public Accounts examination of contracts awarded by the board to Allied Food Marketers West Inc., Louisville, for a period of May 2005 to March 2008. The board granted \$4,891,561 in grants and loans to the company. Findings in the audit included: the ADB's contract with Allied was not sufficient to protect the Commonwealth's interest in multiple areas; a conflict of interest existed in Allied's second ADB contract; GOAP did not have adequate monitoring procedures in place to detect or prevent grantee misappropriation during the pe-

riod under examination; and GOAP did not have adequate documentation procedures in place to ensure project modifications were properly noted and communicated to the ADB.

The issue came to light as a result of a study being undertaken by the University of Kentucky that looked at the efficiency and effectiveness of Rural Development Fund grants and loans, Mr. Thomas said. Concerns were raised in some areas, particularly regarding the Allied contract. Mr. Thomas told the committee that after he joined the GOAP in early January, agency staff began examining the Allied contract. Eventually the board asked the Auditor of Public Accounts to review the contract.

According to the GOAP official, in hindsight the mistakes should not have been made, but the endeavor was a new initiative aimed at addressing a need in Kentucky, that of getting producers' products to market.

The audit contained several recommendations, most of which the agency agreed to. Mr. Thomas indicated that GOAP staff viewed the audit and resulting recommendations as an opportunity to improve the process. In particular, Mr. Thomas discussed ways his staff would be attempting to tighten up GOAP contracts and legal agreements. He said there are over 200 non-model contracts that will need to be modified to meet the audit recommendations contained in the audit.

In committee discussion, Co-chair Rand complimented the agency for being proactive and asked about the current status of the Allied contract. Mr. Thomas said the last contract expired on June 30 and was not renewed. Another Allied application for funding has been put on hold.

In response to another question, Mr. Thomas said he did not want to judge the value of Allied's work, rather wanted to wait until UK completes its evaluation. Although he did say that markets were opened to Kentucky producers that would not have been opened, had it not been for the Allied contract. One example cited was a deal to place Kentucky producers' products in Rempke grocery stores.

Representative McKee commended Mr. Thomas and the board for recognizing a problem and clearing the air on the situation. What is important, the representative said, is to not let the Allied incident tarnish the image of the GOAP and the work being done to diversify Kentucky agriculture.

According to Mr. Thomas, they would be hard-pressed to find a program anywhere comparable to Kentucky's agricultural diversification program.

As discussion continued, Senator Gibson cautioned the agency to adhere to the recommendations offered by the State Auditor. According to the senator, similar problems in the future would invite close scrutiny from the committee.

Representative Comer mentioned that when the contract was first approved, he supported the concept, but the cost of the contract seemed excessive. He said the endeavor may have accomplished some good things, but asked if producers received sales comparable to the value of the contract. Mr. Thomas said he wanted to wait until the UK study is complete before considering the cost benefits. He reiterated that markets were opened up because of the contract.

Responding further to Representative Comer, the witnesses said the Allied contract consumed about 10 percent of state agriculture development funds over the span of time it was in effect. It was later pointed out that the contract represented from 75 to 96 percent of Allied's revenues in those years.

According to Representative Comer, the program may have made a difference, but he noted it is the committee's duty to make sure the state gets its money's worth.

The witnesses explained the conflict of interest cited in the audit, that of an Allied employee also being involved with a company being assisted by Allied.

As the discussion ended, Representative Turner asked if the issue would be revisited once the UK study was completed. Co-chair Rand indicated it would. Mr. Thomas said he wanted to report periodically on progress being made as an outgrowth of the recommendations contained in the audit. In addition, the co-chair indicated that Allied representatives could be invited to an upcoming meeting.

The next speakers were Dr. Robert T. Means, M.D., Interim Director of the Markey Cancer Center at the University of Kentucky, and John Eaton, Ph.D., Deputy Director of the Brown Cancer Center at the University of Louisville. The two speakers updated the committee on progress made at the two institutions in lung cancer research.

Preceding them was Dr. Jay Perman, M.D., Dean of the University of Kentucky School of Medicine. Dr. Perman welcomed the committee to the university and acknowledged the importance of legislators in contributing to lung cancer research.

Speaking first, Dr. Means discussed some of the components of the Lung Cancer Research Program. He updated the committee on the Marty Driesler Cancer Project, a lung cancer screening study, on the Our Lady of Bellefonte Hospital UK lung cancer screening study, the solitary pulmonary nodule study at UK, the biospecimen core program at the Markey Cancer Center, the Kentucky Clinical Trial Network, which has seen an increasing number of Kentuckians participating, and on investigator-initiated research. Dr. Means listed a number of studies that could ultimately impact patients. He also said they continue to pursue National Cancer Institute des-

ignation, which will be important once achieved.

In his remarks, Dr. Eaton, said the Brown Cancer Center continues to grow and expand and has obtained a more than 200-fold growth in research funding since 1999. The speaker said state support has been critical for the Brown Cancer Center's growth because of tobacco funds appropriated to the Lung Cancer Research Program, appropriations to the Bucks for Brains program, revenues from a part of the cigarette excise tax, grant funding from the Office of New Economy, as well as new research space. He said the institution is using the funds to leverage for additional funds. In return, he said, they have been able to develop an internationally recognized drug development program, including a cervical cancer vaccine, have created a university-owned biotech company, to establish the Owensboro Research Program, to fund 10 state of the art multidisciplinary clinics, laboratories for clinical research, and to launch a "Manhattan Project" for lung cancer diagnosis and prevention.

Following their remarks, Co-chair Rand turned to two final speakers, Agricultural Development Board members Mr. Dennis Griffin and Mr. Wayne Hunt.

Speaking first, Mr. Griffin said that from his many years of business experience, he saw the need and value of audits. He said he favored the recent audit of the Allied contract. But Mr. Griffin said he was concerned about how the board was characterized by the State Auditor when the audit was made public. Mr. Griffin said he phoned the State Auditor to express his displeasure.

Speaking next, Mr. Hunt first praised the legislation that established the agricultural diversification program. Before entering into the Allied contract, he said they had struggled to find a market for small farm-based producers. He said they did not enter into the contract lightly and believed they could do some good. He indicated that about 187 producers were assisted under the contract. According to Mr. Hunt, they had wanted to end the contract earlier, but could not do so because of the legal agreement in place.

As the meeting ended, Senator Pendleton said regardless of the number of audits performed, one "bad actor" can create problems. Overall, according to the senator, the agricultural diversification program has a worthwhile record.

Representative Comer said his previous remarks were not meant to be critical of the board. But he said he thought the Allied contract amounts were excessive.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 10:10 a.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

October 1, 2008

The 10th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 1, 2008, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rick Rand, Co-Chair; Senators Charlie Borders, David E. Boswell, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Diane Fleming, Sandra Gardner, and Angela Blank, Governor's Office of Agricultural Policy; Bill McCloskey III and Tim Hughes, Kentucky Agricultural Finance Corporation; and John Covington, Debby Milton, and John Herald, Kentucky Infrastructure Authority.

LRC Staff: Lowell Atchley, Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins.

Minutes of the September 12, 2008 meeting were approved, without objection, by voice vote, upon a motion made by Senator Pendleton and seconded by Representative Adams.

The presiding chair, Representative Rand, asked Mr. Roger Thomas, Executive Director, Governor's Office of Agricultural Policy (GOAP), to report on the projects considered for funding during the September Agricultural Development Board (ADB) meeting. Accompanying him were Mr. Joel Neaveill, Chief of Staff, and Ms. Diane Fleming, General Counsel.

Mr. Neaveill began by reviewing county model projects, and then turning to state projects approved for funding or denied funding during the recent ADB meeting.

Responding to a question from Co-chair Rand about an aquaculture education project for Lawrence County High School, Mr. Neaveill observed that there seemed to be a growing interest in aquaculture in Kentucky high schools. According to Mr. Thomas, Kentucky State University would be contributing its aquaculture expertise to the projects.

A project denied funding prompted some committee discussion. Underwater Ranchers LLC was denied \$21,500 in state funds. The company had sought the funds to develop the state's first red claw hatchery in Anderson County, but was unsuccessful because of the lack of Anderson County funds in the project.

Responding to Representative McKee, Mr. Thomas said the project was probably submitted to the local county council, which may have had available

funds, but by the time it came to the state board for consideration, the local funds were exhausted. Representative McKee asked about a project being denied with a high priority from the local level. According to Mr. Thomas, county councils will sometimes give a project a high priority for funding, realizing the state board may deny it because the project does not comply with board's goals and priorities.

Next, Ms. Fleming spoke to the committee about the board and GOAP's continuing effort to comply with the recommendations contained in the August 15 audit of the Allied Food Marketer's West project, which raised a number of issues related to legal agreements, project management, and accountability.

Ms. Fleming is reviewing and revising existing contracts and is putting standards into new contracts as per recommendations by the State Auditor and the Finance Cabinet. A memorandum outlining what is being done was made available to committee members. She estimated there are about 200 state contracts, some dating back to 2001 that will need to be revised, according to testimony. They will not be revising local, non-model contracts because they are of a shorter duration.

Co-chair Rand referred to some previous testimony before the committee by county council members, who were critical of the variations in non-model contract reporting requirements. In response, Mr. Thomas described the challenge of dealing with the many contracts with program administrators in 118 counties of the state. He said it would be difficult to have a programmatic "template" that would fit every county. But he said there are specific things that each program administrator has to abide by.

On another issue, Mr. Thomas told the committee that about \$11 million in state and county tobacco funds had been set aside for the KARE agricultural drought relief effort.

Mr. Thomas next introduced Mr. Bill McCloskey and Mr. Tom Hughes of the GOAP to give a presentation on the Kentucky Agricultural Finance Corporation. According to Mr. McCloskey, 249 loans totaling \$26.5 million have been approved under the program to date. He reviewed the purpose, interest rates, requirements, and eligible loans available under four programs – Beginning Farmer Loan Program, Agricultural Infrastructure Loan Program, Coordinated Value-Added Assistance Loan Program, and Agricultural Processing Loan Program.

Thus far, about \$4.2 million has been loaned under the Beginning Farmer Loan Program, over \$12 million under the Agricultural Infrastructure Loan Program, over \$976,000 under the Coordinated Value-Added Assistance Loan Program, and some \$9.3 million in the Agricultural Processing Loan Program.

Following their presentation, Mr. Thomas addressed some questions from

Representative McKee, who asked about the availability of loan funds and loan requests. Mr. Thomas referred to the current economic downturn and predicted that, with the availability of affordability credit, the demand may be greater in the future than in the past. As the program continues to grow, Mr. Thomas said, funds coming into the program through interest and principal payments will increase, but those moneys will not address the needs that are prevalent. In the short term, he said, funding will be stable, but later, the KAFC may seek another set-aside of funds from the Agricultural Development Board.

Representative McKee noted the importance of the moneys being made available through the KAFC loan programs.

Mr. Thomas recalled that during the crafting of HB 611 in the 2000 General Assembly, access to capital was deemed to be an important aspect of the program.

Senator Pendleton complimented Mr. Thomas on the program and predicted even more loan applicants will be assisted. He commented on the importance of restoring the \$17 million shifted from the Agricultural Development Fund in the recent budget process.

In his response, Mr. Thomas said he believes the need remains for the agricultural funding.

Co-chair Rand said the KAFC is building a strong portfolio and indicated the program represents a “good investment.”

In closing, Mr. Thomas recognized Mr. Hughes as the first full-time staff person who worked with KAFC in publicizing the loan program.

Next, representatives of the Kentucky Infrastructure Authority, John Covington, Executive Director, John Herald, Executive Assistant, and Debby Milton, Financial Analyst, appeared before the committee to update members on the agency’s water and wastewater funding programs.

The speakers reviewed the history KIA and the General Assembly’s commitment of funds, in particular, tobacco settlement moneys. They discussed the local and regional planning that goes into projects, the current status of waterlines and water treatment plants in the state, local sources of water, wastewater treatment plants and sewer lines. They also discussed funding made available. According to their report, over the next biennium, an additional \$225 million in grants will be made available for 598 projects.

They discussed the General Assembly’s commitment of tobacco settlement funds to the agency in 2000, 2003, 2005, 2006, and in the recent 2008 session, during which bond funding totaling \$150 million was committed for 436 projects in 83 counties.

The report also showed that Kentucky ranks in the top 5 nationally by

virtue of having 92 percent of the state population with access to community water systems.

Mr. Covington said future challenges for KIA include, continuing to improve the drinking water and wastewater planning process, meeting wastewater needs, and maintaining and upgrading existing infrastructure.

Following the presentation, Senator Borders asked about the possibility of public water service increasing beyond the current 92 percent coverage. According to Mr. Covington, there are parts of Western Kentucky where less water service exists because ground water can be accessed with wells. However, there are areas of Eastern Kentucky that do not have water service but are seeking it. Counties in those areas are seeing progress made in extending service, according to Mr. Covington.

Responding further to Senator Borders, Mr. Covington said water lines generally last longer than sewer lines. But at the same time, water lines placed in areas of significant residential growth will need to be replaced sooner. Loans on treatment plants are typically for 20-30 years, which usually represents the life of a plant. Sewer lines are generally more expensive to install than water lines, according to Mr. Covington, who also said the availability of sewer service tends to increase the demand for water.

In continuing discussion, Representative McKee emphasized the need to assure that watershed sources are sufficient.

Representative McKee also asked about KIA funds that may be unused as projects linger over time. Ms. Milton said some communities wait through one funding cycle into another in order to obtain additional grant funding. The speakers discussed how they review projects that may linger in an attempt to move them through the completion process.

Responding to questions from Co-chair Rand, Mr. Covington discussed how one treatment plant may serve multiple counties. He said they have encouraged regional projects. The speaker described KIA’s role as that of providing information for the planning process, and providing data, but allowing local governments at the regional level to design for their own needs.

The speakers responded to the co-chair that there are many interconnected systems throughout the state. According to Ms. Milton, several budget line items allowed for system interconnections.

Regarding the extension of sewer lines, Mr. Covington responded to Co-chair Rand that several factors are involved in extending sewer service. He mentioned that the demand for sewer service is not as great as water. Also, there are fewer sewer service providers in rural areas. According to Mr. Covington, municipalities are sometimes reluctant

to run sewer lines outside city limits because they are not always assured that customers will sign up for service.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 11:30 a.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs Minutes of the 1st Meeting of the 2008 Interim September 23, 2008

The 1st meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, September 23, 2008, 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; Senators Carroll Gibson, Ernie Harris, Alice Forgy Kerr, and Elizabeth Tori; Representatives Kevin D. Bratcher, Mike Cherry, Larry Clark, Tim Firkins, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, John Will Stacy, Kathy W. Stein, and Greg Stumbo.

Guests: Trey Grayson, Secretary of State; Sarah Ball Johnson, State Board of Elections; Sarah Jackson, Emily Dennis, and Rhonda Farmer, Kentucky Registry of Election Finance.

LRC Staff: Judy Fritz, Bill VanArsdall, and Terisa Roland.

Senator Thayer announced three new members to the Task Force; Senators Ernie Harris, Johnny Ray Turner, and Ed Worley.

Secretary of State Trey Grayson, and Sarah Ball Johnson, Executive Director of the State Board of Elections, gave updates on the 2008 Primary, and the distribution to the counties of the remaining Help America Vote Act (HAVA) funds.

Secretary Grayson reported that there was record voter participation for the 2008 Primary. He noted that though the final numbers were not yet available, the turnout was approximately 32% or maybe higher. He stated that he expects the same for the General Election in November.

Secretary Grayson announced that before the Primary seven counties phased out their older voting systems and replaced them with optical scanned balloting, similar to what Jefferson County has used for twenty years. Secretary Grayson distributed a chart that correlated voter turnout by county.

Representative Clark asked for Secretary Grayson’s prediction for the upcoming election for voter turnout. He said it was a little early but he believed it would be a little higher than the 65%

statewide participation four years ago.

Representative Clark asked how many new voters had been registered this year. Secretary Grayson said that there were more new Democrats in raw numbers registering. He said over the past five to ten years, Republicans had been gaining ground, relatively speaking, but that currently more people are registering as Democrats. Secretary Grayson said the numbers for mid September 2008, were 1,656,242 registered Democrats; 1,049,459 registered Republicans; and 188,598 registered as “Others”, for a total of 2,894,299 registered voters in Kentucky. In 2004, there were about 2,794,000 registered voters, so voter registration has increased by approximately 100,000 registered voters. He stated that 37,000 persons have registered since the Primary.

Representative Bratcher complimented the secretary on the Kentucky Secretary of State (KYSOS) website. He asked who designed the site. Secretary Grayson gave credit to John Y. Brown, III for spearheading the project when Mr. Brown was Secretary of State. He added that the current KYSOS staff continues to improve the site and to make it more user friendly.

Representative Bratcher asked if every single vote had a paper trail. Secretary Grayson explained that the voting system is voter verifiable – but that there is no “paper trail” per se. He opined that he has confidence in the current voting systems used in the Commonwealth.

Representative Stumbo asked about standardizing machines statewide and if such standardization would be possible, as well as, a cost saving to the state. Secretary Grayson replied that currently there are three types of machines used in the Commonwealth and that each is supplied and serviced by a different company. Such standardization might save money but it would require transitional training for poll workers, and would be an effort that would require coordination, input, and cooperation among local officials.

Sarah Ball Johnson, Executive Director of the State Board of Elections (Board) discussed disbursement of federal HAVA money. She stated that from the original \$32 million received by the state, \$19 million remains, including interest earned. She stated that the Board has obligated \$15.8 million to counties to be reimbursed for the purchase of voting machines, of which \$3.7 million has already been spent. The remaining HAVA funds will be spent on: voter education; funding of on-line absentee voting; and an upgrade from a main frame data system to one that will be web based. (Spread sheet for Voting Equipment and Update on HAVA Disbursements in folders.)

Senator Thayer asked when the counties reimbursements and other project expenditures would be completed. Ms. Johnson said the current Memorandum

dums of Agreement (MOA) are in effect for the entire biennium. However, she clarified that the HAVA funds were dedicated and if the counties had not spent the money during the timeframe specified in the MOA, additional MOA would be executed. She testified that there is not a deadline when all of the HAVA dollars must be exhausted.

Secretary Grayson announced that Kentucky is one of only six states participating in a program using the Depart-

ment of Military's secure email system for voting purposes. Kentucky citizens and military personnel who are overseas, may vote via e-mail thus, cutting the time between when an absentee ballot is cast and when it is received. He said the General Assembly had authorized this participation and that the Commonwealth was appreciative. He further explained that the KYSOS is partnering with a non partisan group called the Overseas Vote Foundation. The foundation facilitates

online voter registration and absentee ballot requests for overseas citizens and military persons.

Chairman Thayer directed the members' attention to two handouts distributed to the Task Force from the Executive Director of the Kentucky Registry of Election Finance, regarding an upcoming meeting of the Council on Governmental Ethics Laws to be held in Chicago later this year, and an evaluation of each state's statutory campaign finance dis-

closure requirements. He asked Secretary Grayson to comment on Kentucky's evaluation. The secretary said that Kentucky needs additional electronic campaign finance filing requirements, and one more mandatory disclosure report. He reminded the members that such a bill had been proposed during the last four Sessions.

Chairman Thayer concluded all Business and the meeting was adjourned at 2:00 p.m.

2009 Prefiled Bills

BR 21 - Representative Melvin B. Henley (06/19/08)

AN ACT relating to voluntary student expression of religious viewpoints in public schools.

Amend KRS 158.183 to permit students to voluntarily express religious viewpoints in school assignments free from discrimination and organize prayer groups, religious clubs, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups; create a new section of KRS Chapter 158 to require each board of education to adopt and implement a policy regarding voluntary student expression of religious viewpoints and to establish a limited public forum for student speakers at all school events at which a student is to publicly speak, including graduation; designate procedure for selection of student speakers; require subject of speech to be relevant to event; require district disclaimer indicating nonendorsement of the content of voluntary expressions by students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 24 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to primaries.

Amend KRS 116.055 to permit a registered independent to vote in the primary of one party for each primary; amend KRS 118.125 to provide that a prima-

ry candidate shall not be a registered independent; amend KRS 117.125 to provide that electronic voting machines be reprogrammed to allow a registered independent to vote for a party's candidates in a primary.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 28 - Senator Gary Tapp, Senator Dan Seum (07/07/08)

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define "low-speed electric vehicle" and amend the definition of "motor vehicle" to include a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 45 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 45 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 33 - Representative Jim Wayne, Representative Charles Siler (07/28/08)

AN ACT relating to tax credits for hiring legally blind or severely disabled individuals.

Create a new section of KRS Chapter 141 to create a community re-

habilitation tax credit for the amount paid to a nonprofit agency or work center for work performed by individuals who are legally blind or severely disabled, define terms; amend KRS 141.0205 to establish the order in which the credit shall be taken.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 34 - Senator Tom Buford (07/17/08)

AN ACT relating to donations.

Create a new section of KRS 367.170 to 367.300 to require for profit entities that collect donated items for resale to affix a permanent sign on the collection bins that states that the collections are not charitable in nature and do not qualify for a charitable deduction, and that provide the name and contact information for the entity; provide that a violation of this section is an unlawful act under KRS 367.170; provide that the provisions may be enforced by the Attorney General or the county attorney.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 37 - Senator Katie Stine (06/19/08)

AN ACT relating to the promotion of physical activity in schools.

Create a new section of KRS 160 to require the Kentucky Department of Education to promulgate an administrative regulation to require all public preschool to eighth grade programs, no later than the 2009-2010 school year, to implement 30 minutes per day or 150 minutes per week of structured moderate-to-vigorous

physical activity in a minimum of 10 minute intervals incorporated into the school day; permit the physical activity to include a combination of classroom-based physical activity, structured recess, or other structured physical activities; require the Kentucky Board of Education to promulgate administrative regulations to implement the physical activity requirement; amend KRS 160.345 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 38 - Senator Joey Pendleton (10/09/08)

AN ACT relating to fuel ethanol-blended gasoline.

Create new section of KRS 363.900 to 363.908 to define terms; require that all fuel terminals that sell gasoline in Kentucky offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline; provide that terminals that only offer for sale federal reformulated gasolines shall be exempt from the requirement to offer for sale unblended gasoline; permit all fuel retail facilities, wholesalers, distributors, and marketers to purchase ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier; permit biodiesel-blended fuel to be freely mixed or co-mingled with conventional diesel fuel and sold at retail without any penalty, fine, punishment, or regulatory impediment; and permit fuel ethanol-blended gasoline to be freely mixed or co-mingled with unblended gasoline and sold at retail without any penalty, fine, punishment, or regulatory impediment.

(Prefiled by the sponsor(s).)

BR 41 - Representative Addia Wuchner, Representative Tom Burch (07/30/08)

AN ACT relating to physical activity for children.

Create a new section of KRS Chapter 156 to require the Kentucky Department of education to identify and disseminate model resources for integrating physical activity during the school day; encourage schools to utilize certified physical education teachers in the development of physical activity plans; develop a reporting mechanism for schools containing grades K-5 to report on results of physical activity and wellness programs; require the Department of Education to report no later than November 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare; amend KRS 160.345 to require that school council wellness policies provide for at least 30 minutes of structured moderate to vigorous physical activity, 150 minutes per week or the equivalent per month; require school councils to report progress data; require that structured physical activity be considered part of the instructional day; prohibit exclusion from structured physical activity as a form of discipline; encourage schools with grades 6-8 to adopt similar policies; amend KRS 158.6453 to require inclusion of physical activity and wellness data in school report card; create the Healthy Kids Act.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 42 - Representative Melvin B. Henley (08/05/08)

AN ACT relating to substance abuse screening pilot programs for public assistance recipients.

Amend KRS 205.200 to create two pilot substance abuse screening programs for recipients of public assistance.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Health and Welfare

BR 45 - Senator Bob Leeper (10/10/08)

AN ACT relating to nuclear power.

Amend KRS 278.600 to require that nuclear power facilities have

a plan for the storage of nuclear waste rather than a means for permanent disposal; define “storage”; amend KRS 278.610 to delete the requirement that the Public Service Commission certify the facility as having a means for disposal of high-level nuclear waste; change all references to the disposal of nuclear waste to the storage of nuclear waste; repeal KRS 278.605.

(Prefiled by the sponsor(s).)

BR 49 - Representative Brent Yonts (07/18/08)

AN ACT relating to clerks of the circuit court.

Amend KRS 30A.010 to require that the salary of a clerk of the circuit court be set according to the salary schedule used for local officials in KRS 64.5275; delay the salary provisions until July 1, 2010.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 56 - Representative Steve Riggs (09/02/08)

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define “low-speed electric vehicle” and amend the definition of “motor vehicle” to include a low-speed electric vehicle; amend definition of “motorcycle” to exclude vehicles that are 3-wheeled and meet all the requirements of a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 35 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 35 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 57 - Representative Darryl T. Owens (10/08/08)

AN ACT relating to paternity.
Amend KRS 406.011, to es-

tablish that the presumption of paternity is a rebuttable presumption, to update the evidentiary language, and permit an evidentiary showing that a man other than the husband is the father of the child to prove the child was born out of wedlock; amend KRS 406.021, to clarify how paternity may be determined, to add references to Family Court, and to permit either parent to petition the court for a parentage determination; amend KRS 406.035, relating to written paternity orders, to include references to Family Court judges; amend KRS 406.051 to include references to Family Court and clarify how an appeal is to be made; amend KRS 406.151, to include the county where the child resides as an appropriate venue in paternity cases.

(Prefiled by the sponsor(s).)

BR 60 - Representative Ron Crimm (09/04/08)

AN ACT relating to domestic relations and declaring an emergency.

Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; amend KRS 403.270, relating to custodial issues, to add the promotion of a healthy relationship between the child and other custodian or parent as a factor for the consideration of awarding custody of children; amend KRS 530.050, relating to nonsupport and flagrant nonsupport, to add spouse and former spouse; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 61 - Senator Ray S. Jones II (08/21/08)

AN ACT relating to driving under the influence.

Amend KRS 189A.010 to establish a per se violation of the DUI statute if the driver has at least a certain amount of a controlled substance in the blood; create a defense if the person took the controlled substance in compliance with a valid prescription; reduce the required alcohol concentration for an aggravating circumstance from 0.18 to 0.15; amend KRS 189A.105 to lower the alcohol percentage from 0.18 to 0.15 for increased penalties; amend various other statutes to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 68 - Representative Ron Crimm (08/12/08)

AN ACT relating to jury service.

Amend KRS 29A.010, relating to jury service, to define “calendar day”; amend KRS 29A.130, relating to limitations on jury service, to increase the interval between eligibility for jury service from 24 months to five years; change “court days” to “calendar days” with regard to 30 days of service being required.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 69 - Senator Ray S. Jones II (08/21/08)

AN ACT relating to the civil rights of deaf and hard of hearing persons.

Amend KRS 163.510 to require the Commission on the Deaf and Hard of Hearing to advise the Commission on Human Rights on adequate technological means of providing closed captioning for motion picture theaters; amend KRS 344.130 to require movie theaters with five or more screens to provide closed captioning for deaf and hard of hearing persons; amend KRS 344.190 to require the Commission on Human Rights to review and approve available closed captioning technologies and set the minimum numbers of closed captioned showings of a movie which must be offered at each covered theater.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 73 - Representative Tom Burch (10/15/08)

AN ACT relating to video lottery terminals, making an appropriation therefor, and declaring an emergency.

Create new sections of KRS Chapter 154A to establish video lottery terminals at licensed racetracks and in each county that authorizes video lottery terminals by a vote of the people of the county; direct the Lottery Corporation to purchase any video lottery terminals utilized in Kentucky; require that persons wishing to

operate video lottery games allotted to counties obtain a contract from the Lottery Corporation after having acquired prior approval from the local governing board where the terminals will be located; place the oversight of the games under the jurisdiction of the Lottery Corporation; limit the number of video lottery terminals to 25 at any one premises unless the premises is a racetrack or a qualifying hotel; set qualifying hotels as those within five miles of a convention center or facility that seats 2,000 or more people; allow these hotels to operate up to 75 video lottery terminals; establish that the three types of video lottery terminal allocation are racetracks, uniform county allotment, and county allotment based on population; limit racetrack allocation to a set formula, uniform county allotment to 50 per county, and a total county population allotment to 6,000 video lottery terminals distributed to the counties proportionate to population; establish the duties and responsibilities of the corporation, its agents, and its employees; prohibit ex parte communications between lottery board members and contract holders, licensees, and applicants for such contracts or licenses; allocate a base number of 500 video lottery terminals to each licensed racetrack; grant additional video lottery terminals to each track based on the number of days of live racing held at the track; set additional allotment at 15 video lottery terminals for each race day run beyond 30 and up to 50 race days, with an additional 10 video lottery terminals for each race day beyond 50 race days; prohibit operation of video lottery terminals on race days at the track where the live racing is being conducted from 30 minutes before the post time of the first race of the day until after the last race of the day has been run; allow a track to lease its machines to another track located in the same county; require tracks to run the same number of race days as in 2008 to remain eligible for video lottery terminals, with exemptions for extreme circumstances; prohibit any person less than 21 years of age from being on the premises or any portion of the premises where video lottery games are conducted; establish qualifications and responsibilities of video lottery retailers and licensees; list grounds by which a video lottery retailer or applicant may have his or her contract rescinded, revoked, suspended, or not renewed; permit the corporation to issue temporary licenses; prohibit the transfer of licenses without obtaining

prior approval from the corporation; create an exemption to allow facilities developed for video lottery gaming activities to be considered permitted uses for zoning purposes; maintain other applicable zoning and building codes; specify how the moneys earned from the conduct of video lottery games are expended; cap the amount the corporation may spend on administrative and operating expenses to no more than seven percent of net terminal income; pay the lesser of 0.25% or \$2,000,000 to the compulsive gamblers' assistance fund, and the lesser of 0.4% or \$3,000,000 to develop testing methods to detect growth hormones and performance-enhancing or illegal drugs in racehorses; allot the lesser of 0.3% or \$3,000,000 of the net terminal income from racetracks to conduct post-race testing of racehorses for illegal drugs; devote remaining moneys to education, Medicaid matches, prescription drug program for seniors, equine industry program, video lottery retailers, budget reserve fund, and county governments where video lottery games are located; require the Auditor of Public Accounts to conduct an annual audit of the corporation's disbursements and expenditures; create a committee to conduct a study on video lottery games operating in the state and their impact on the economy; indicate the committee's membership; direct each county to conduct a local option election on video lottery terminals at the next general election that occurs more than 90 days after video lottery terminals are authorized generally; allow for subsequent elections on the issue after at least three years have passed since the last referendum; make racetrack employee collective bargaining agreements for nonsupervisory employees applicable to the track's video lottery terminal employees; generate a list by which undesirables may be ejected or excluded from any premises where video lottery games are being conducted; set out criteria to be used in making a determination as to whether or not such persons should be excluded or ejected; allow an individual to have himself or herself voluntarily added to the exclusion list; require the commission to notify a person placed on the exclusion or ejection list; establish a procedure by which a person ejected or excluded may appeal the decision to eject him or her; define the term "cheat" and establish penalties for persons who cheat; create the compulsive gamblers assistance fund; determine how expenditures from the compulsive gamblers assistance fund

will be utilized; require the commission to prepare an annual report detailing activities and expenditures of the compulsive gamblers assistance fund; encourage video lottery retailers to cooperate with local business and community organizations to stimulate the economy through tourism; make the Lottery Corporation's board members, executive director, and employees subject to the executive branch code of ethics; amend KRS 154A.010; 154A.030, 154A.040, 154A.050, 154A.060, 154A.063, 154A.070, 154A.080, 154A.090, 154A.110, 154A.130, 154A.400, 154A.420, 154A.650, 230.357, 230.550, 243.500, 243.505, 525.090, 528.010, 528.100, 154A.990, and 15.380 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 74 - Representative Jim DeCesare (08/01/08)

AN ACT relating to writing portfolios.

Amend KRS 158.6453 to remove writing portfolios from the statewide CATS assessment program for elementary school students; require elementary schools to use writing portfolios as an instructional tool for continuous assessment of students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 75 - Representative Jim DeCesare, Senator Bob Leeper (08/01/08)

AN ACT relating to accounting for the expenditure of state funds.

Create new sections of KRS Chapter 42 to require the Finance and Administration Cabinet to create a searchable Web site to provide certain information on the expenditure of state funds; provide that the new sections shall be known as the "Taxpayer Transparency Act of 2009."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 76 - Representative Jim DeCesare (08/01/08)

AN ACT relating to a legislative time-out prior to voting on a floor amendment or a free conference report related to an appropriation measure or a revenue measure.

Create a new section of KRS Chapter 6 to require a legislative time-out period of 24 hours prior to a vote on an appropriation or revenue bill or amendment.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 78 - Representative Jim Gooch Jr., Representative Hubert Collins (09/05/08)

AN ACT relating to motor vehicle license plates.

Create a new section of KRS Chapter 186 to establish an In God We Trust license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 79 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to automated or recorded political telephone messages.

Create a new section of KRS Chapter 367 to prohibit use of automated calling equipment or recorded political telephone messages from or by a political party or campaign; make use of such equipment for communicating political messages by a political party or campaign a Class B misdemeanor; provide that each prohibited automated call or recorded political message shall be punishable by a civil penalty of not less than \$5,000; provide that an injured person may bring a cause of action for damages up to the amount of actual damages or \$1,000 whichever is greater.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 82 - Representative Charles Siler (08/29/08)

AN ACT relating to Kentucky State Parks.

Create a new section of KRS Chapter 148 to provide qualified Kentucky residents who are permanently and totally disabled veterans an exemption from the relevant overnight accommodations rate at any Kentucky

State Park, Sunday through Thursday of each week; require the exemption to apply to a maximum of three overnight stays per calendar year at lodge rooms and campsites at any Kentucky State Park; limit reservations during peak months to ten consecutive days; require the exemption to be subject to space availability; require the Department of Parks to promulgate administrative regulations relating to the proof of eligibility for persons entitled to the exemption.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection

BR 84 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to jurisdictional limits for Kentucky courts.
Amend KRS 24A.230 and 24A.290 to increase the jurisdictional limit of the small claims division of the District Court from \$1,500 to \$3,000 for both claims and counterclaims.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 94 - Representative Tom Burch (09/04/08)

AN ACT relating to horse racing.
Amend KRS 230.260 to require the Kentucky Horse Racing Authority to promulgate administrative regulations compelling racetracks to report to the authority and to the horsemen's associations their daily on-track attendance and the daily on-track and off-track handle within 24 hours after the last race on the day in question; state that the report is to list moneys wagered on-track, off-track, through advance deposit wagering, and all other sources in the host track wagering pool; indicate that the report should also list how all wagering moneys retained by the track are credited to be paid to the state, the horsemen's purse account, the relevant horse development fund, and the track itself; direct that the Kentucky Horse Racing Authority promulgate administrative regulations to mandate submission of a report to the authority any time a racehorse, while training or racing in Kentucky, incurs a catastrophic, race-career ending injury or an injury requiring surgery; indicate that separate reports are to be filed by the prem-

ises where the injury occurred, the attending veterinarian, and the horse's trainer; disclose on the report whether the horse has ever been given growth hormones or anabolic steroids, corticosteroids within 10 days of the injury, any mental or physical changing medications within 30 days of the injury, or had any corrective surgery or other techniques that could have altered the horse from its natural birth configuration; make reports available to the public upon request; penalize failure to report with a \$500 fine for the first offense and a six-month license suspension for each subsequent offense.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Licensing and Occupations

BR 103 - Representative Mary Lou Marzian (10/15/08)

AN ACT relating to the expansion of the film industry in Kentucky.
Create new sections of KRS Chapter 148 to provide individual income tax, corporation income tax, limited liability entity tax, and sales tax incentives for locating a film production facility in Kentucky or filming or producing a motion picture production in Kentucky; define terms; establish qualifications including minimum capital investment and minimum qualifying expenditures and minimum qualifying payroll expenditures, application and reporting requirements; require the Kentucky Film Office to administer the incentive program; authorize the Kentucky Film Office to enter into a film industry tax incentive agreement; authorize the promulgation of administrative regulations by the Kentucky Film Office and the Department of Revenue; create a new section of KRS 141 to create a motion picture film production nonrefundable income tax credit for the construction of a new film production facility or the renovation of an existing structure to become a film production facility and a motion picture production that is filmed or produced in Kentucky against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 for taxable periods beginning after December 31, 2008; allow credit to be carried forward 5 years; amend KRS 141.0205 to establish the order in which the credits may be taken; amend KRS 139.538 to provide refund of the sales and use tax paid on the purchase of tangible personal property that is permanently incorporated into a film production facility or is used to initially equip the

film production facility; provide for a refund of the sales and use tax paid by an approved company on qualifying expenditures if used in the filming or production of a motion picture production in Kentucky.

(Prefiled by the sponsor(s).)
BR 106 - Representative Sal Santoro (10/10/08)

AN ACT relating to noncommercial swimming pools.
Amend KRS 67.083 to allow counties to regulate above-ground noncommercial pools.

(Prefiled by the sponsor(s).)
BR 109 - Representative Kevin D. Bratcher (09/23/08)

AN ACT relating to postsecondary education finance.
Amend KRS 164.7874 and 164.7883 to clarify that an approved out-of-state institution at which eligible students may use KEES scholarships must be located in a state contiguous to Kentucky or be a participant in the Academic Common Market agreement.

(Prefiled by the sponsor(s).)
BR 120 - Representative Rick G. Nelson (09/15/08)

AN ACT relating to motor vehicle license plates.
Create a new section of KRS Chapter 186 to establish an "In God We Trust" license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 142 - Senator Dan Seum (09/26/08)

A CONCURRENT RESOLUTION urging the United States Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.
Urge Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.

(Prefiled by the sponsor(s).)
BR 147 - Representative Tanya Pullin (09/16/08)

AN ACT relating to income tax credits for small businesses.
Create new sections of KRS Chapters 141 and 154; amend KRS 141.0205 to establish a small business tax credit.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 162 - Representative Brent Yonts, Representative Jody Richards (09/26/08)

A JOINT RESOLUTION restoring the salary of the Legislative Research Commission Director to an acceptable level.
Express sense of General Assembly regarding salary increase for director of Legislative Research Commission; rescind Legislative Research Commission action giving salary increase to director; set salary at level of position on August 31, 2008; require director to repay any increase in salary; RETROACTIVE.

(Prefiled by the sponsor(s).)
BR 163 - Representative Brent Yonts, Representative Jody Richards, Representative Dottie Sims (09/26/08)

A RESOLUTION urging the Legislative Research Commission Director to reject his salary increase.
Express sense of House regarding salary increase for director of Legislative Research Commission; urge director to reject salary increase, agree to a cost of living increase of 1%, and repay any salary increase received as a result of the LRC's September 24, 2008 vote.

(Prefiled by the sponsor(s).)
BR 175 - Representative Mary Lou Marzian (10/21/08)

AN ACT relating to wage discrimination.
Amend KRS 337.423 to prohibit wage discrimination on the basis of sex, race, or national origin by prohibiting wage differentials for employees who perform equivalent jobs; provide exceptions for wage dif-

ferentials based on seniority or merit systems, systems that measure wages by quantity or quality of production, and factors other than sex, race, or national origin; amend KRS 337.420 to define equivalent jobs as those that are equal under the federal Equal Pay Act, or jobs that are dissimilar but equivalent in skill, effort, responsibility, and working conditions; and amend KRS 337.425 to require promulgation of administrative regulations on or before July 1, 2010 to specify criteria for determining jobs that are dominated by employees of a particular sex, race, or national origin, and acceptable methodology for determining equivalent skill, effort, responsibility, and working conditions; EFFECTIVE July 1, 2011.

(Prefiled by the sponsor(s).)

BR 177 - Representative Mary Lou Marzian (10/14/08)

AN ACT relating to health care services provided in clinical trials for the treatment of cancer.

Create a new section of Subtitle 17A of KRS Chapter 304 to prohibit a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial; provide that nothing in this section requires a policy to offer, nor prohibit a policy from offering, cancer clinical trial services by a participating provider; provide that nothing in this section requires services that are performed in a cancer clinical trial by a non-participating provider of a policy to be reimbursed at the same rate as those performed by a participating provider of the policy.

(Prefiled by the sponsor(s).)

BR 180 - Senator Jack Westwood (10/08/08)

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating

to the effect of the bill's provisions after the bill's effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 182 - Senator Ken Winters (10/13/08)

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating to the effect of the bill's provisions after the bill's effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 209 - Representative Mary Lou Marzian (10/21/08)

AN ACT relating to the Kentucky Recreational Trails Authority.

Amend KRS 148.795 to add a member of the Brain Injury Association of Kentucky to the Kentucky Recreational Trails Authority.

(Prefiled by the sponsor(s).)

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seatbelts, and a VIN number.

Motorcycles, meanwhile, exclude anything with a closed cab. ZAP vehicles, which have three wheels, electric power, and will be manufactured in Simpson County, do not meet either definition. Gov. Steve Beshear announced this summer that regulations would soon be in place that allow the vehicles on some roads. The ZAP cars top out at 40 miles per hour, which makes them infeasible on some roads.

“For any of these to be legitimately on the road, we need legislation or regulation that allows them,” said committee co-chair Rep. Hubert Collins, D-Wittensville. He also noted driver’s licensing issues, since motorcycles and cars have different requirements.

Legislators also discussed rising concerns about hybrid vehicles, especially the danger they can present to blind pedestrians because of their quietness. Pamela Roark Glisson, with the National Federation of the Blind of Kentucky, noted that hybrids must be 40 percent closer before pedestrians can hear them.

“We don’t want to stifle advancement in technology or conserving of energy... but people who are blind want to be able to move about our communities without the fear of being mowed down by one of these quiet weapons,” she said. She said manufacturers should consider devices on their vehicles so that pedestrians would be more aware.

Rep. Jimmie Lee, D-Elizabethtown, noted that Chevrolet has addressed the issue with its all-electric Volt, which is being prepared for manufacture. “It can’t be too obnoxious, but we’ve been used to hearing these sounds for a long time now,” he said.

Robert Strassburger with the Alliance of Automotive Manufacturers noted that his group is investigating steps to measure how much sound cars produce so it can be replicated without becoming noisy to the public. “We also need to know the minimum noise needed for someone to detect the vehicle and detect it in time.”

He noted the irony of automakers working for years to make vehicles more quiet and energy efficient, only to have accomplished the task too well.

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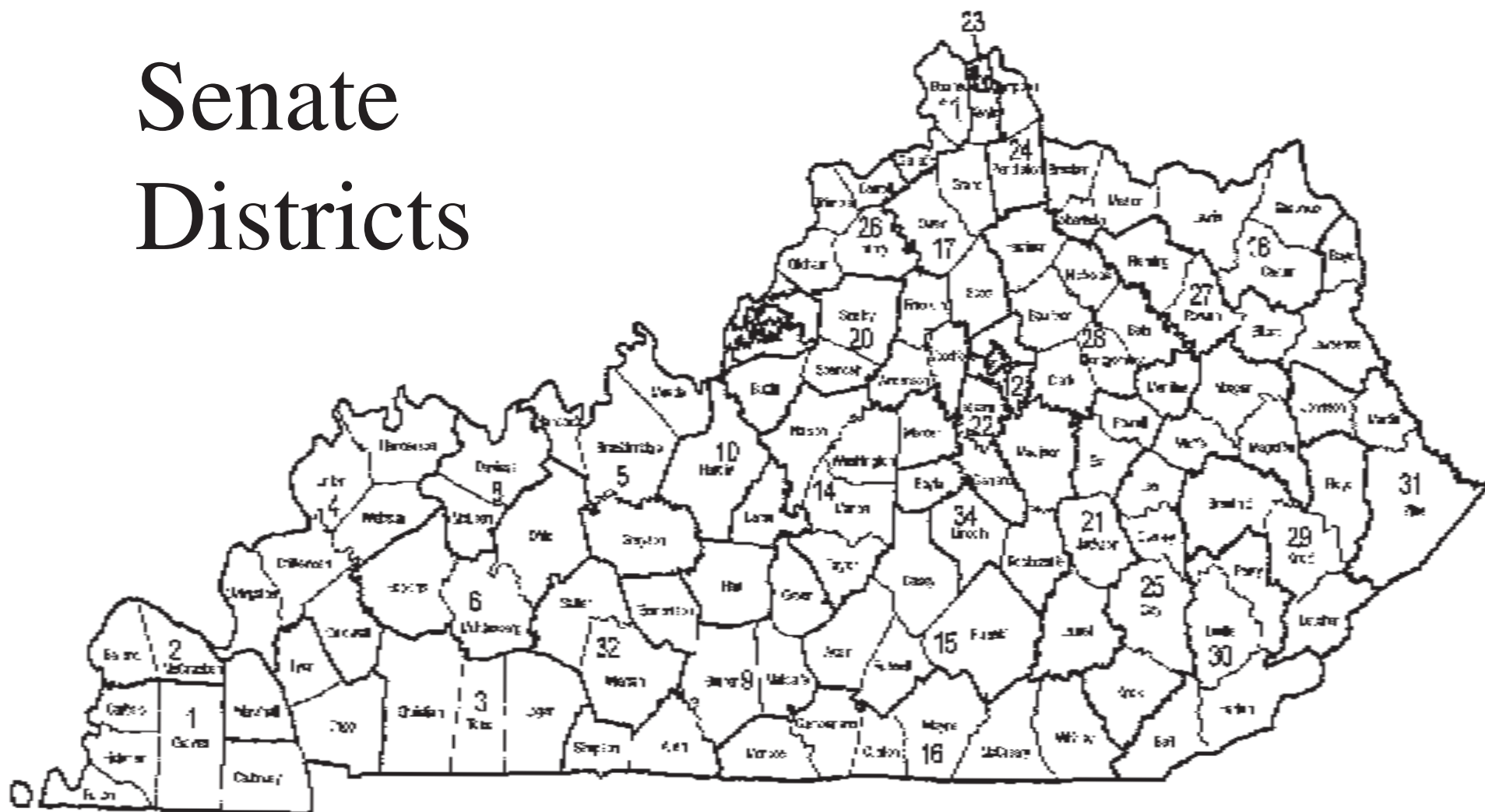
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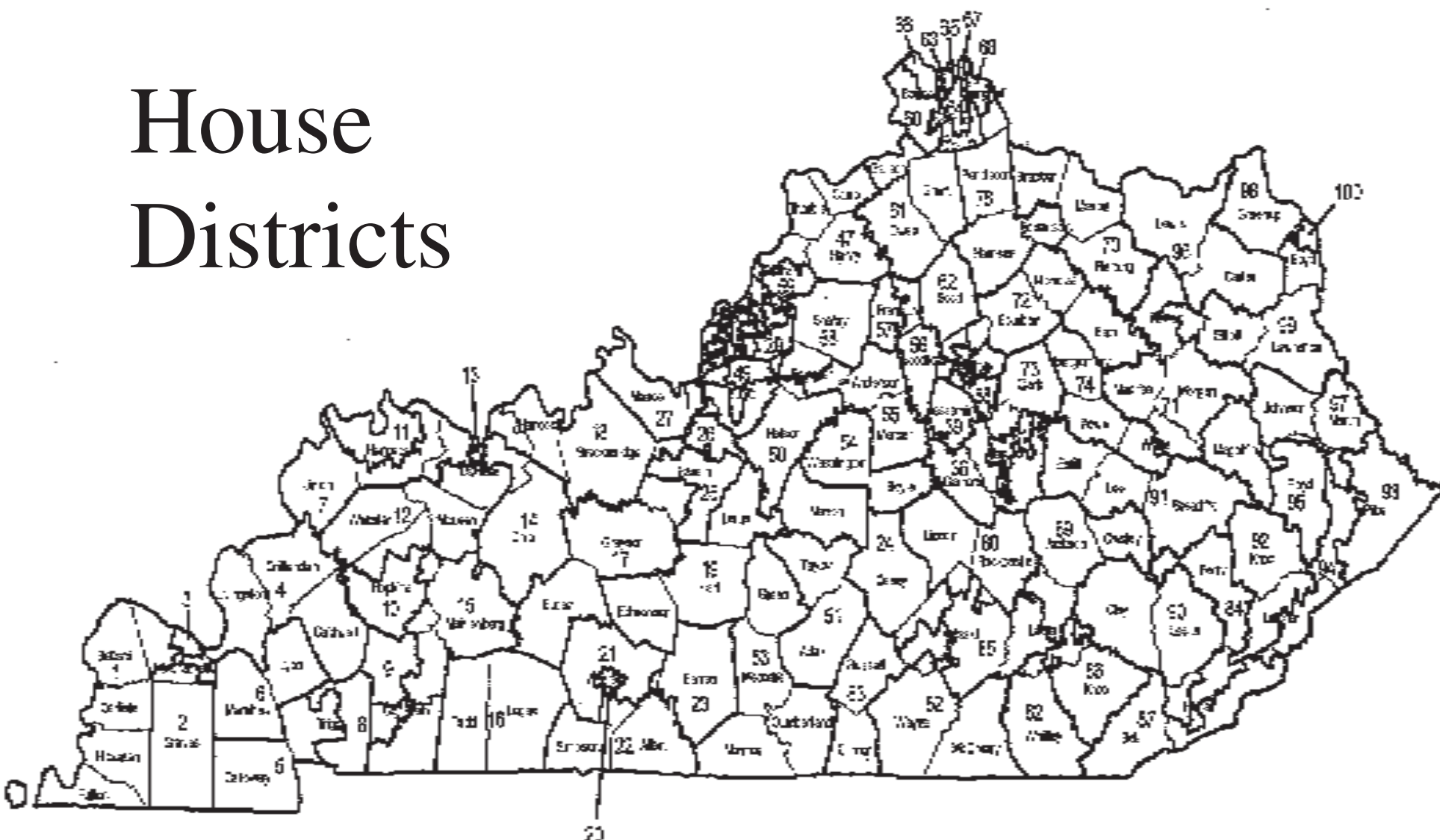
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Senate Districts



Senate Plan (SH001A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.

House Districts



House Plan (H001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.



The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

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