

Economy, federal rules challenge Kentucky banks

by Chuck Truesdell
LRC Public Information

Only 12
Kentucky
institutions
have received
federal TARP
funding
aimed at
troubled banks.

DANVILLE — Community banks across Kentucky are finding the general economic slowdown and federal regulations their biggest challenges, not foreclosures and other mortgage-related issues, a panel of lawmakers heard on Oct. 27.

The Interim Joint Committee on Banking and Insurance, meeting at Centre College, heard

Continued on page 2

Coal still king, legislators told

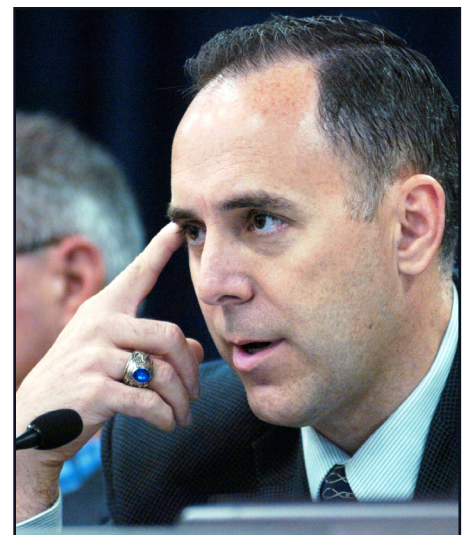
by Rebecca Mullins
LRC Public Information

Natural gas, wind, and even algae are considered alternative energy sources, but state researchers say they probably won't replace coal anytime soon.

The director of the University of Kentucky Center for Applied Energy Research told the Interim Joint Committee on Natural Resources and Environment on Oct. 23 that he expects fossil fuel like coal to produce at least 40-50 percent of U.S. electricity for the foreseeable future.

"We have a very limited set of options with renewables to produce at utility scale," said CAER director Rodney Andrews, adding that the U.S. needs to be careful about declaring what is the best available technology. "We don't know enough about these technologies today to say this is the best available technology, and we're looking at an EPA regulation which declares we do know how to do that."

The U.S. Environmental Protection Agency proposed a rule last month that would allow it to regulate carbon dioxide and other greenhouse gas emissions from thousands of coal-fired power plants and other industrial plants nationwide. Some say the action could expedite passage of a climate bill in Congress.



Rep. Tim Moore, R-Elizabethtown, asks questions of state energy researchers during the Oct. 23 meeting.

Bud Kraft/
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Information

Continued on page 65

Lawmakers updated on WEG at Horse Park

by Rebecca Mullins
LRC Public Information

LEXINGTON — Sunlight streamed through the glass entrance of the Kentucky Horse Park's new Indoor Arena on Oct. 15 as lawmakers gathered inside the lobby for an update on the 2010 World Equestrian Games for which the facility was built.

Kentucky Horse Park Executive Director John Nicholson said it was "fitting" that the Oct. 15 meeting of the Interim Joint Committees on Economic Development and Tourism and Labor and Industry was the first meeting held inside the front lobby of the arena.

"I think it is fitting that it's you, because you are the ones that made it possible," said Nicholson. Of the approximately \$109 million in investments made at the Horse Park in preparation for the Games—also called the 2010 Alltech FEI World Equestrian Games, or WEG—around \$80 million has been public funds. The most high profile investments are the Indoor Arena, which will seat 6,000 spectators, and



Senate President Pro Tem Katie Kratz Stine, R-Southgate, talks with Rep. Tom Kerr, R-Taylor Mill, on Oct. 15 at the Kentucky Horse Park's new Indoor Arena.

Rebecca Mullins/
LRC Public Information

an Outdoor Stadium that can seat up to 30,000 per event.

An estimated half-million people are expected to attend next year's WEG during the Games' 16-day run beginning Sept. 25, said World Games 2010 Foundation CEO Jamie Link. Over half a billion

people are expected to be able to watch the games via broadcast worldwide.

The WEG will be second largest sporting event in North America in 2010 behind the Vancouver Winter Olympic Games, Link said.

Continued on page 2

Banks, from page 1

testimony both from industry leaders as well as state regulators on the conditions of banks in the commonwealth.

"Kentucky banks are some of the strongest in the nation," said Debra Stamper, general counsel to the Kentucky Bankers Association. "Kentucky banks hold firm to a long history of conservative, well-managed banking practices." The result, she said, is that state banks do not show the headlining results of major banks in other states, both in good times and bad.

Charles Vice, who heads the state's Department of Financial Institutions, detailed various measures of financial stability for state banks. While Kentucky's nonperforming assets — generally loans delinquent for 90 days or more — have increased by about three-fourths since the end of 2007, the number across the nation has tripled, he noted.

Both KBA and DFI pointed to the economy rather than irresponsible loan practices as a prime reason for the increase in foreclosures in Kentucky. The nationwide economic meltdown caused in part by Wall Street's down-

turn has caused a spike in unemployment, harming otherwise reasonable loans in Kentucky, the Midwest, and other manufacturing-heavy regions.

Rep. Steve Riggs, D-Jefferson-town, asked why subprime mortgages got most of the media attention even though they composed only about 10 percent of all home loans in the state. "What's being gained by pointing fingers at the wrong group?" he asked. Vice responded that the subprime percentage was higher in some states and that subprime borrowers made convenient scapegoats while noting that subprime borrowers were not necessarily lower-income borrowers, an important distinction that many have failed to note.

The one Kentucky bank failure this year, Vice pointed out, involved an institution that had only moved its headquarters to Louisville this year and was federally chartered and regulated. Of the more than 150 banks the state regulates, he said, about 20 percent are facing some sort of action plan that may be as simple as developing their own program for improvement.

Only 12 Kentucky institutions have received federal TARP funding aimed at troubled banks, with \$191

Continued on page 78

Lawmakers review state's water, wastewater programs

by Rebecca Mullins
LRC Public Information

A state agency that has administered over \$1 billion in loans and nearly \$800 million in grants for water, wastewater and other infrastructure projects is taking local to a whole new level.

Kentucky Infrastructure Authority official Debby Milton told the state legislative Tobacco Settlement Agreement Fund Oversight Committee in October that KIA—which administers loan programs and line-item grants—is making the agency's loan and grant programs more flexible by basing them more on local need.

"Hopefully, this will improve the legislative line item process," said Milton. "We have placed a renewed emphasis on planning. Everything starts at the bottom level," with funding proposals prioritized by local water management councils, said Milton.

A share of the funding for KIA's water and wastewater line-item projects comes from dollars received from the state's 1998 national tobacco

settlement with major cigarette manufacturers. Since the Kentucky General Assembly initiated line-item grants for KIA projects in tobacco and coal counties in 2003, hundreds of millions of dollars have been appropriated for these projects in tobacco dependent counties, Milton explained.

She added that Kentucky ranks in the top five nationally in the percentage of people with access to community water systems because of KIA's grants and loans.

A recent funding source for KIA projects was the federal stimulus package approved by Congress earlier this year. Milton said KIA applied for and received \$70 million in stimulus funds, allowing the agency to fund 61 projects that were ready for construction.

When asked by Sen. Damon Thayer, R-Georgetown, if all 61 projects had been previously approved by the General Assembly, Milton said no. She said the projects were on a priority list in KIA's State Revolving Fund-part of a federally-funded program.

WEG, from page 1

"This is something that is going to be carried across the world (sharing) the beauty of Kentucky and what we have to offer here," said Link.

Link said the economic impact of the 2010 WEG is projected to be \$150 million—a goal he said "is attainable if not easily exceeded." Over 125,000 tickets have already been sold for the event in all 50 states and 40 countries since tickets became available on Sept. 25, he said.

As WEG organizers enter the final year before the Games, Link said organizers are making a final push to market the event, which has been held in Europe every four years since its inception in 1990.

"The European market will actually be our strongest international market," said Link.

Once the Games are over, Link and Nicholson said facilities built for the event will not only be used but will attract major competitions that cannot be accommodated now at the Horse Park. One of those events is the U.S. Equestrian Federation's national dressage championships which are ex-

pected to be held at the park in 2011, according to the Horse Park's magazine "Discover Horses."

Responding to a question by Economic Development and Tourism Committee Co-Chair Rep. Eddie Ballard, D-Madisonville, Nicholson said Kentucky could possibly even land the WEG again at some point in the future now that it has the facilities.

"I think we are going to have a number of events as a result of what we're doing here today," said Nicholson.

The WEG are part of the evolving mission of the Kentucky Horse Park, which was envisioned as what he called "the people's horse farm" by the late famed horseman John R. Gaines, founder of the Breeders' Cup and Gainesway Farm. Nicholson said Gaines proposed a public horse park after several horse farms closed their doors during construction of portions of the interstate system in the late 1960s.

"That was the genesis of the idea," said Nicholson.

Today, the 1,200 acre Horse Park is home to Kentucky Derby winners Alysheba and Funny Cide, several national and international competitions,



Rep. Brent Yonts, D-Greenville, left, talks with Rep. Mike Denham, D-Maysville, at the Oct. 15 joint meeting at the Kentucky Horse Park.
Rebecca Mullins/LRC Public Information

museums and special exhibitions and dozens of equine organizations, including the prestigious U.S. Equestrian Federation which governs equestrian sport in the U.S.

The Federation headquarters were located in New York City until

moving to Lexington in 1999.

Nicholson said Kentucky's success in landing the 2010 WEG is due in part to the Federation's move to the Horse Park, which he said increased the Park's profile both nationally and internationally.

State ramping up efforts to improve kids' oral health

by Rob Weber
LRC Public Information

A \$2 million effort to improve the oral health of Kentucky children will train more dentists to treat young patients, purchase portable dental equipment to serve areas in need and create community coalitions to address barriers to good oral health.

The effort will help tackle the poor oral health in Kentucky "that in some instances is unconscionable," a state health official told members of the General Assembly's Poverty Task Force on Oct. 26.

Steve Davis, MD, the senior deputy state health officer for the Cabinet for Health and Family Services, told lawmakers that children's oral health problems can have "a domino effect" that interferes with their development and ability to learn. "It's not just an oral health issue. It's an overall health issue as well," he said.

The state's new oral health initiative, funded by federal grants, seeks to increase access to dental care. "In so many of our areas we don't even have a dentist available that can see young children" Davis said.

The initiative will support a training program so that more general dentists will be prepared to offer care to young children. It will also establish oral health coalitions at local levels so that oral health problems can be identified and plans to overcome them can be tailored to an area's specific needs.

The state's efforts will also include the purchase of portable dentistry equipment. The equipment will be transported to counties in need so that dental care can be offered in places such as schools, child care centers and senior citizens' homes, Davis said.

Kentucky led the nation in adults missing teeth by age 65 in 2002.

Kentucky led the nation in adults missing teeth by age 65 in 2002. Nearly half of the state's children between 2 and 4 years old have untreated oral health problems, such as cavities – more than twice the national average, according to the Cabinet for Health and Family Services.

The reasons for the state's poor oral health are many, including poor diets, a lack of understanding of the importance of good oral health in some families, and a shortage of dentists in certain areas, Davis said.

Rep. Addia Wuchner, R-Burlington, said that a pediatric dentistry counsel she served on in Northern Kentucky found that children's dental services weren't being fully accessed even in some areas that had a sufficient number of pediatric dentists. Follow-up meetings with the dental community indicated that complications in the reimbursement structure in the Kentucky Children's Health Insurance Program and Medicaid were contributing factors. "Is there anything we can do to improve that so that when the practice is available that community members are taking advantage of it?" she asked.

Davis responded that the Department for Medicaid Services has been working on the issue.

"I know within the last two years they have taken this on as a significant priority and have actually been able to raise the reimbursements to practitioners who see children by about 30 percent. So I think as a result of that combined with fact that we are now going to provide some training programs for family dentists so they feel more comfortable seeing young children that we're really in hopes we're going to see a higher enrollment of practitioners in the Medicaid program and thus get more of our children who are on Medicaid seen."

Rep. Jim Glenn, D-Owensboro, asked Davis about potential budget-neutral approaches to improving children's oral health. Davis replied that one cost-effective approach to improving oral health would be to have even wider efforts educate families about the value of good oral health and the importance of brushing teeth, flossing, seeing a dentist and eating right.

While noting that a \$2 million effort to address children's oral health issues is significant, especially during tight budgets, House Speaker Greg Stumbo, D-Prestonsburg, said he'd like to receive a recommendation on how much it would cost to take an even larger, comprehensive approach. "I would like to see what recommendations you could make in the best of all worlds on what we could do -- and how much it would cost -- to have the forces necessary to take a great big swat at this problem," Stumbo said. Davis told Stumbo he'd make sure information is compiled and provided.

Legislators look into two-year college transfers

by Chuck Truesdell
LRC Public Information

More than a decade after higher education reform, many community and technical college students have trouble transferring to four-year colleges within Kentucky, a panel of lawmakers heard in October.

KCTCS Chancellor Jay Box and others discussed the problems with members of the legislature's Subcommittee on Postsecondary Education. While the University of Kentucky and Lexington's Bluegrass Community and Technical College have made great strides in their relationship, "unfortunately, KCTCS's goals are much greater than simply lining up with UK," he said. With 16 local two-year colleges and eight public four-year schools, each with their own course numbering system and course structure, it's complex to get everyone on the same page.

Box and Robert King, president of the state's Council on Postsecondary Education, also noted that even when course credit transfers, it doesn't always count toward the student's degree program. A system where every student understands their planned bachelor's degree requirements and what they can do at their two-year school to make progress is essential, they said.

"Frankly, there's going to be an expectation that we live up to some of the things we've been talking about" with the tight budget situation heading into the 2010 session, said Sen. Tim Shaughnessy, D-Louisville.

Rep. Bill Farmer, R-Lexington, noted that as students take longer to graduate, more state tax dollars are needed to subsidize university programs.

Rep. Jody Richards, D-Bowling Green, pointed out a 2004 survey showing that 67 percent of KCTCS students planning to transfer had not received any transfer information from a college advisor, and that 32 percent did not understand the transfer process. "Those problems are fixable," he said, while King noted that CPE hoped to conduct an updated survey soon and that he believed those numbers would be much lower.

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2010 Session Calendar

2010 REGULAR SESSION CALENDAR

(Approved by LRC 9/2/09)

JANUARY

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

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

FEBRUARY

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

() Denotes Legislative Day

MARCH

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

APRIL

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

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Rick Rand PO Box 273 Bedford 40006 Work 502-255-3286 Home 502-255-3392 FAX 502-255-9911	Brent Yonts 232 Norman Circle Greenville 42345 Work 270-338-0816 Home 270-338-6790 FAX 270-338-1639
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Carl Rollins II PO Box 424 Midway 40347 Home 859-846-4407 Work 502-696-7474	
Steven Rudy 3430 Blueridge Dr. W. Paducah 42086 Home 270-744-8137	
Sal Santoro 596 Walterlot Ct. Florence 41042 Home 859-371-8840 FAX 859-371-4060	
Charles Siler 3570 Tackett Creek Rd. Williamsburg 40769 Work 606-549-0900	

Committee Meetings

Index

A

Administrative Regulation Review Subcommittee, 51
Appropriations and Revenue, 6, 7, 9, 11

B

Banking and Insurance, 13, 14

C

Capital Planning Advisory Board, 48
Capital Projects and Bond Oversight Committee, 49

E

Economic Development and Tourism, 15
Education, 17, 20, 22
Energy, 25, 26

G

Government Contract Review Committee, 55

H

Health and Welfare, 27, 28

J

Judiciary, 28, 31, 33

L

Labor and Industry, 35
Licensing and Occupations, 37
Local Government, 38

N

Natural Resources and Environment, 39

P

Poverty Task Force, 61
Prefiled Bills, 66
Program Review and Investigations Committee, 57, 59

S

Senior Citizens, Special Advisory Commission of, 63, 64
State Government, 41, 43, 46

T

Tobacco Settlement Agreement Fund Oversight Committee, 64
Transportation, 46

V

Veterans, Military Affairs and Public Protection, 47

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting of the 2009 Interim September 24, 2009

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mr. Todd Cassidy, Kentucky Tourism Development, Arts, and Heritage Cabinet; Commissioner Tom Miller and Mr. Mac Gillim, Kentucky Department of Revenue; Mr. David Adkisson, President, Kentucky Chamber of Commerce; Ms. Deborah Clayton, Ms. Donna Duncan and Ms. Holland Spade, Kentucky Cabinet for Economic Development.

LRC Staff: Pam Thomas, John Scott, Jennifer Hays, Whitley Hernon and Christina Williams.

Chairman Leeper entertained a motion to approve the minutes from the August 27, 2009 meeting. The motion was seconded and passed by voice vote.

Mr. David Adkisson, President, and Mr. Bryan Sunderland of the Kentucky Chamber of Commerce, and Mr. John Cubine, a private consultant, addressed the committee regarding the mismatch between revenue receipts and expenditures. Mr. Adkisson referred to this problem as the "leaky bucket", which was the theme for his PowerPoint presentation. Mr. Adkisson stated that state revenues decreased by 2.7% for 2009, but that several state expenses have increased during the same time period, creating "leaks in the bucket." Increased

expenditures are primarily found in the areas of public employee benefits, corrections, and Medicaid. Mr. Adkisson then noted that the state could increase revenues, decrease expenditures, or manage expenditures more efficiently. He suggested that the state manage healthcare costs, Medicaid, and corrections expenditures more effectively through modernizing state government, re-focusing priorities and re-evaluating spending practices.

In response to Mr. Adkisson's presentation, Senator Kelly stated that one area where significant savings can be quickly realized without any damage to public safety is corrections. He stated that rather than incarceration, alternative, less costly consequences could be imposed for some crimes, such as second offense drug use charges. Senator Kelly stated that these types of changes could save the state approximately \$100 million annually.

Senator Boswell expressed his concerns regarding the cost of corrections in the state, discussing inmate costs and prison maintenance. He also expressed agreement with Senator Kelly that an alternative method should be found to address second offense drug convictions.

Representative Ford asked if the numbers listed on the "Tax Climate Index" slide from Mr. Adkisson's presentation were weighted by population. Mr. Adkisson responded that the different components that make up the tax climate index come from different sources and that he would provide Representative Ford with the information relating to the sources. Mr. Adkisson noted that in the Tax Climate Index, Kentucky has gone from 34th to 20th in the nation between this year and last year.

Senator Westwood suggested that one way to increase revenues is to focus on economic development to attract new industries and other businesses, and asked Mr. Adkisson if the Chamber has any ideas on growing or stimulating Kentucky's businesses. Mr. Adkisson responded that the Chamber believes that a continued focus on education and economic development is important, and that the state should be careful about diverting funding from these purposes.

Senator Shaughnessy stated that if the public employees' healthcare is the largest growing cost, it must be managed diligently so as not to erode funds for other budget areas. He also

noted that there is no simple solution to the issues facing the Commonwealth, and that addressing revenue shortfalls and growing expenditures is a complex task.

Representative Graham asked Mr. Adkisson whether the Chamber would be willing to support tax increases or to "give back" some tax breaks if necessary to continue to support important priorities like education and development. Mr. Adkisson responded that he is not familiar with the specific tax breaks Representative Graham is referring to, but that according to a national study comparing all states, businesses in Kentucky pay approximately 40% of the taxes paid, and that the amount paid by businesses has remained relatively stable over the years. Mr. Adkisson suggested that before tax increases or the repeal of tax breaks are considered, the "leaky bucket" should be repaired.

Chairman Leeper asked if all of the revenues discussed in the presentation were tax revenues, or if fund transfers and revenue from other sources were included in the figures presented. Mr. Adkisson replied that that fund transfers and tobacco tax revenues were excluded from the figures.

Senator Kelly asked whether Kentucky's change in stature in the "Tax Climate Index" from 34th to 20th is a good thing, and Mr. Adkisson responded that it is.

Next, Mr. Todd Cassidy, Executive Director of Tourism Development for the Kentucky Tourism Development, Arts and Heritage Cabinet addressed the committee concerning recent changes to Historic Preservation Tax Credits, the Tourism Development Act, and film industry incentives.

Chairman Leeper asked how the incentive program requirements are monitored relating to the measurement of visitors from out-of-state. Director Cassidy responded that the attractions are required to submit annual reports which include documentation that the statutory percentage requirement for out-of-state visitors is met. He noted most attractions use zip code data from credit card transactions as the standard for the information in the reports, although some, like Newport on the Levee, which involves several different retail locations, will survey license plates in the parking lot periodically to determine where visitors are from.

Senator Shaughnessy asked for an example of a not-for-profit that

might qualify for incentives under the Tourism Development Act. Director Cassidy responded that the Louisville Zoo is a not-for-profit organization that could qualify for incentives, however the cost of the initial study, if the zoo were required to pay for it, would not be recouped for 2-3 years, making participation in the program unaffordable. This is why the statute was amended to allow the cabinet to provide an internal study for smaller projects proposed by not-for-profits.

Representative Moberly asked if a study has been done to determine the effectiveness of the Tourism Development Act. Director Cassidy responded that he was not aware of a specific study concerning that issue, but the Legislative Research Commission will receive annual reports, which will also be posted on the cabinet website concerning number of applications, total incentives offered, and that amount of funds that have been claimed to date. Director Cassidy also noted that each project must have a completed study finding a positive economic impact before incentives can be provided.

Representative Moberly then asked for the benefits of the Tourism Development Act. Director Cassidy stated that projects approved under the Act have provided an approximate \$5.8 billion net positive fiscal impact to the Commonwealth. Representative Moberly asked for the benefits to the companies or the entities that qualify for the program. Director Cassidy stated those who qualify receive up to 25% of their development costs per project. Representative Moberly asked if it was assumed these developments would not have happened without the Tourism Development Act. Director Cassidy stated he knew of at least two instances when the programs were looking at sites outside of the state, until they learned of the Tourism Development Act. He further stated there is a page in the application that must be signed stating if it were not for the Tourism Development Act, that they would not be moving forward with their project.

Next, Representative Moberly asked if the Historic Preservation Tax Credits are refundable. Director Cassidy stated that they are. Representative Moberly asked whether builders or individual home owners have benefitted the most from those credits. Director Cassidy responded that the Heritage Council would be able to answer the question more thoroughly, but that he believes that the available credits are divided between individual homeowners and developers. Representative Moberly noted that this credit could provide the ability for people who have large tax liabilities to relieve themselves of

substantial amounts of state income tax liability.

Senator Harris asked if there has been increased interest in films being made in Kentucky since passage of the new film incentives. Director Cassidy responded there has been a significant increase in phone calls asking about the incentive program. He also noted that in addition to "Secretariat", which has already been approved for incentives, there is one pending that has not yet been considered by the authority.

Chairman Leeper asked if Director Cassidy is satisfied that there are significant safeguards in place for the film incentive program to protect Kentucky from issues like those that have arisen in Iowa and Louisiana. Director Cassidy replied that he believes Kentucky is well protected because the application process funnels through two agencies, because applications must be approved by an independent authority, and because of the public disclosure requirements.

Representative Moberly asked whether, if a filmmaker spent \$4 million in Kentucky, the state would send them an \$800,000 tax refund. Director Cassidy stated that Representative Moberly's example was correct.

Next, Mr. Tom Miller, Commissioner of the Kentucky Department of Revenue; and Mr. Mac Gillim, Executive Director of the Office of Processing and Enforcement for the Kentucky Department of Revenue updated the committee concerning enhanced collection efforts being made by the Department and how additional positions funded by the General Assembly during the last budget cycle will be used to enhance collections.

Representative Adams asked which areas are being targeted for enhanced collection efforts. Commissioner Miller replied the Department is expanding its compliance initiative for different taxes, such as individual income tax, corporate tax, coal severance tax, and withholding tax. Commissioner Miller also said that the Department is looking for ways to more efficiently collect delinquent taxes already on the books. Representative Adams asked if the Department is offering an amnesty program. Commissioner Miller responded that no amnesty program is being offered at this time.

Representative Higdon commented that he would like to see the Department do a better job communicating with retailers about the sales and use tax because he believes that there are many retailers that do not understand the application of the tax.

Senator Harris asked if those be-

ing hired to enhance collection efforts have some accounting background. Commissioner Miller stated a significant number of applicants have been auditors who have accounting backgrounds or revenue program officers who have a degree or experience to substitute for the degree. He also said that one of the requirements to be an auditor is an accounting degree or over 20 credit hours of accounting.

Finally, Ms. Debra Clayton, Commissioner of the Department of Commercialization; Ms. Donna Duncan, Commissioner of the Department of Financial Incentives; and Ms. Holland Spade, Executive Director of the Office of Legal Services with the Cabinet for Economic Development provided an update to the committee regarding the Cabinet for Economic Development's current economic development incentives.

Chairman Leeper asked how the Cabinet verifies that communities are meeting the requirements for these programs. Commissioner Duncan responded that the Cabinet requires recipients to submit documentation to verify they are meeting the requirements.

Representative Richards asked which job areas are currently seeing the most growth. Commissioner Clayton stated that health and human development, biosciences, information technology, advanced materials, and energy and environment are seeing job increases.

Chairman Leeper asked if any stimulus money was earmarked for the economic development initiatives. Commissioner Clayton replied that some money has been earmarked for economic development, and that currently the Cabinet is working with the Energy Cabinet to finalize a grant which they received. She stated that the Cabinet would be the grant recipient and they will solicit applications for these funds from other companies. Chairman Leeper next asked how the cabinet is informing the public regarding the small business portion of House Bill 3. Ms. Spade stated there is a small business tax credit program as part of House Bill 3 and that the first tax year that business may take the credit is 2012. She stated that applicants must establish and maintain one new job for one year before they are eligible so those who could possibly be eligible will be notified in 2011.

Senator Leeper asked for the Cabinet's budget priorities for the next two years, and Ms. Spade responded that the Secretary will answer that question for the committee at a future meeting.

Senator Leeper asked what constitutes a "construction job" – for example, a news report for a new

project might state that the project will create 300 construction jobs and 50 permanent jobs. Commissioner Duncan responded that, for purposes of their programs, construction jobs are not counted or considered for purposes of compliance, so they do not really track or define "construction jobs."

Chairman Leeper thanked those who testified and the meeting was adjourned at 3:15 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education Minutes of the 2nd Meeting of the 2009 Interim September 24, 2009

The 2nd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2009, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Senator Tim Shaughnessy; Representatives Kelly Flood, Melvin B. Henley, Harry Moberly Jr., Jody Richards, and Carl Rollins II.

Guests: Dr. Terry Holliday, Commissioner, Kentucky Department of Education, Hiren Desai, Associate Commissioner, Kentucky Department of Education, and Dr. Larry Stinson, Interim Deputy Commissioner, Bureau of Learning and Results Services.

LRC Staff: L. Bart Hardin, Tom Willis, Greg Rush, Tracy Goff Herman, Spring Emerson, and Amie Elam.

Chairman McGaha began the meeting by welcoming Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE), who addressed the impact of budget reductions on KDE and on local school districts.

Chairman McGaha asked about the use of flex funds and if there were a primary target where the money has been rechanneled. Commissioner Holliday responded that he does not know yet where the funders were moved but that would come in a monthly report. Mr. Desai said that KDE will provide that information as soon as it is available. He noted that funds cannot move from preschool but a district may move funds from Extended School Services (ESS) or other areas. Dr. Holliday said that from speaking to superintendents he sensed local school districts were using local dollars to cover the textbook shortfall because Professional Development (PD) and ESS had al-

ready been reduced in the budget.

Representative Miller inquired about spending money on Title I. He said that by having deadlines during the school year money is often wasted and asked why the deadline is September 30, so close to the beginning of the school year. Commissioner Holliday said that the issue is the Federal Fiscal year which begins October 1. The districts should spend Title I monies received from the American Recovery and Reinvestment Act (ARRA) by the end of the school year in fiscal year 2011. They could carry over some of the dollars through September 30 but it should be used for things like materials, supplies, and software licensure.

Representative Moberly asked for an explanation of the four Race to the Top criteria. Commissioner Holliday replied that those were the options for school reform in the lowest performing 5% of schools. Option one, according to the current guidelines, is to close the school and send the students somewhere else. Option two would be a reform effort to fire the principal, replace 50% of the staff, and reform the school. Option three would be the district or the state could contract with a provider to come in and reform the school. Option four would be to transform the school with a very prescriptive list of assurances that are very similar to the four areas that are in the Race to the Top dollars which are standards, teacher/principal effectiveness, data systems, and focusing on low performing schools. The final guidance for the application is not yet available from the United States Department of Education. Dr. Holliday stated that the plan is to introduce this early and let everyone know the final guidelines and then engage in conversations about Site Based Decision Making, principal effectiveness, teacher effectiveness, and other barriers. Representative Moberly asked when the final guidelines would be provided. Commissioner Holliday answered most likely in December. Representative Moberly asked if the Commissioner planned on correlating these dollars with the Commonwealth School Improvement Fund. Commissioner Holliday said yes and that he had an internal task force in place to make ensure that the federal guidelines were aligned with Senate Bill 1. He assured the committee that efforts to turn around low performing schools and ensuring the effectiveness of our assist model and our Title I school improvement model are integrated, and by doing this KDE hopes to leverage the dollars to do one model rather than two or three different models.

Representative Moberly inquired as to what Commissioner Holliday

meant when he said that this is where the charter school language would come in. Commissioner Holliday responded that in the ARRA in the School Improvement Grants and under Race to the Top, the language implies that states should have no barrier to limiting the use of high quality charter schools for the purpose of turning around low performance schools. Representative Moberly asked for a definition of charter schools in that language. Commissioner Holliday responded that there was not necessarily any definition in the language, but what he is pushing and would encourage is a conversation between local districts and local school boards about working with providers, a team of teachers, maybe a university, or someone that could bring in a new reform model. Representative Moberly asked if it would be up to the legislature to define what a charter school is. Commissioner Holliday responded yes. Representative Moberly asked if KDE would be proposing legislation on allowing and defining charter schools and School Improvement Grants. Commissioner Holliday stated that there is a team that will be meeting with key leaders to prepare for the session. Representative Moberly asked if the \$47 million amount mentioned by Commissioner Holliday was the amount that Kentucky could potentially receive under the federal program. Commissioner Holliday responded yes and added that Kentucky would continue to receive the current \$8 million a year. Dr. Holliday stated that the \$47 million is a one-time infusion of money that would be spread over three fiscal years. Representative Moberly asked if there would be accountability factors put in place regarding this money, especially as it is a larger amount than is usually received. Commissioner Holliday said yes.

Representative Rollins asked if all four options under Race to the Top had to be considered or if it could be a combination. Commissioner Holliday stated that there are some limitations currently in the language and that they would not want to force all schools to use the same model, so he does not want to be in the position of forcing a local Superintendent and board to have to choose between two options with one of them being to close the school. He stated that KDE would like to have all four options.

Chairman McGaha asked how much local input would be considered in making the choice or if this would be a mandate from the legislature. Commissioner Holliday stated that it would always be up to the local board and the local superintendent; this just provides them options

for when they have tried everything else unsuccessfully. Senator McGaha asked if he was right in assuming that the legislature would be responsible to define and clarify the options but the actual choice would be left up to the local board. Commissioner Holliday responded in the affirmative but added that after a certain period of time if the school had not turned around then there would be more control at the state level.

Senator Shaughnessy asked what group of schools Race to the Top focused on. Commissioner Holliday responded all schools. Senator Shaughnessy asked about the initiative that focused on the lowest performing schools. Commissioner Holliday said this was School Improvement Grants. Senator Shaughnessy asked if the four criteria were focused on the federal flow of resources of the lowest performing schools. Commissioner Holliday answered that the Race to the Top has a focus on turning around low performing schools as well as School Improvement Grants. Senator Shaughnessy asked what source of federal funding the four components related to. Commissioner Holliday stated that the charter school issue was one of nineteen criteria within Race to the Top. Senator Shaughnessy wanted to know if Kentucky would indeed be one of those states that would have a barrier to charter schools, as Kentucky law does not currently allow charter schools, and would that eliminate Kentucky from being eligible for funding. Commissioner Holliday responded that it did not eliminate Kentucky and that they are working on making the application as innovative as possible to show that Kentucky has done good work and to improve our chances of receiving these funds. Senator Shaughnessy asked how many schools make up the top 5% of the lowest performing schools. Commissioner Holliday replied it could be anywhere from twelve to thirty depending on definition. Senator Shaughnessy inquired about the geographical locations of these schools. Commissioner Holliday responded that the schools are concentrated in urban areas.

Senator Shaughnessy recognized that Commissioner Holliday has been embraced statewide and is off to a good start. He then strongly suggested that Commissioner Holliday look to the legislature for definition of charter schools. He also pointed out that Commissioner Holliday had made many references to the relationships between our universities. He stated that there are some successful examples of where universities have developed primary and secondary relationships but the students that go to those schools would

not be considered failing students. He cautioned against looking to the already challenged universities as an alternative to an existing model.

Chairman McGaha asked if the funds could be used for staffing. Commissioner Holliday responded in the affirmative adding that many of the districts have used Title I and IDEA funds to cover shortfalls in other funds.

Representative Flood stated that the given to districts was not to start new programming with this money, but to use it for seeding a few good ideas and not invest too much in staffing. Commissioner Holliday agreed.

Representative Richards asked how many school systems were taking advantage of changing buses to more fuel efficient models. Dr. Stinson said that he could get a report to answer this with more detail. He explained that there is a purchasing program in place and they develop specifications each year to maintain safety and fuel efficiency. Representative Richards inquired about hybrid buses. Dr. Stinson said there are two approaches as they look at the recovery act money; one is to help control emissions by modifying exhaust systems, and the second is to purchase hybrid buses.

Representative Richards inquired about technology in Kentucky's schools. Commissioner Holliday explained that we have a great team that is very focused on classroom and school districts. He said that he believes that Education Week would put us in the top 5% consistently across the nation. In early October, Microsoft will be announcing that we are the first state to go to Cloud Computing, giving a lot of our teachers and schools access to social networking within a safe environment. Measurable objectives will be out in early January.

Representative Coursey inquired about increases in the free and reduced lunch program resulting from the downturn in the economy. Commissioner Holliday said those numbers are not currently available and will be provided at a later date.

Senator Shaughnessy asked if a plan was in place for fiscal year 2012 if no federal funds are available. Commissioner Holliday stated that they will try to find external dollars, new dollars, or they will have to cut back on programs. He added that the state board is in the review process to make sure there is accountability for every flow-through dollar so that they can report to the legislature which programs seem to be effective for addressing needs-especially graduating more students and preparing more students for college. Representative Shaughnessy expressed

his concern that with the influx of recovery funds that the inevitable is just being prolonged and that two years from now Kentucky may be in a worse position than if the problem was addressed now. Commissioner Holliday stated that when one is talking about cutting people's jobs it often just continues the cycle and if you can keep people working and spending dollars and investing in their local communities it would be better in the long run. He added that it is hoped that the economy can be stimulated through things like school construction.

Chairman Thompson asked if superintendents were looking at SEEK being reduced. Commissioner Holliday said that superintendents were definitely looking at efficiencies and effectiveness, looking at every program and every dollar to make sure the focus is on kids and learning.

Chairman Thompson asked for an update regarding Senate Bill 1 and what kind of funding the implementation would impose on KDE and on local districts. Commissioner Holliday stated that the Council of Chief State School Officers (CCSSO) and the National Governors' Association (NGA) provided college readiness standards, and that there had been teams of teachers working this week to analyze those and provide feedback. The math standards are expected to be in by the end of October. The focus of the Race to the Top application is to try to get dollars from external sources rather than relying on Commonwealth dollars for PD and development of the assessments that Senate Bill 1 requires. The next two Senate Bill 1 Steering Committee meetings will focus on PD and what the anticipated cost will be.

Representative Flood recognized the good work that was being done to deal with an inadequate tax base, adding that she agrees with not invading the dollars that local districts have built up for emergencies.

Representative Miller stated his concern with replacing buses, which were deemed unsafe, and selling them to private drivers and then rehiring these buses for field trips.

Representative Moberly asked if Commissioner Holliday had been told by the administration that there would be a mid-year cut. Commissioner Holliday said that he had not been told of a cut, but that he was just always preparing and that he anticipated the recovery process was going to be slower so he was trying to be fiscally responsible.

Representative Moberly asked if Commissioner Holliday had been told that there would be any new money in the next biennium. Commissioner Holliday responded that he was told that there most likely

would not be any new money. Representative Moberly stated that there was projected growth in the next biennium, with the only problem being that we are spending more than that growth brings us. Representative Moberly stated that there is more stimulus money going to education than any other area, so if the budget was cut according to the amount of stimulus money each area got in the base in January, then education would be in the worst position. He stated that it was his understanding that the administration had committed to treating all of those funds as general funds when they are putting the base together so that the stimulus will come off the top and affect everyone equally so that those areas that received greater amounts of stimulus funds would not be disproportionately punished. Commissioner Holliday said that he had not yet heard that.

Representative Moberly inquired about what Commissioner Holliday was planning to do in respect to applying for Teacher Incentive Funds from the ARRA. Commissioner Holliday said that from his understanding the money was more likely to go to non-profits and Local Education Agencies (LEAs) rather than directly to states. Representative Moberly asked if local districts would be the ones applying for these funds. Commissioner Holliday said he would not know until he saw the guidelines.

Representative Moberly asked if Commissioner Holliday was aware of the pilot programs that were set up in Kentucky that provided money and got some results. Commissioner Holliday said that he would be sure to look into that. Representative Moberly inquired about the qualified school construction bonds and whether or not the application deadline had passed. Commissioner Holliday answered that the deadline for the first wave was October 1 and the second wave deadline was December 15. Representative Moberly asked if schools were fully apprised of this opportunity. Commissioner Holliday said that they did get the information out and that he will get another correspondence out about the second wave deadline.

Representative Moberly inquired about the 23 districts that were awarded diesel hybrid and emissions funds and asked if all districts were given the opportunity to apply for this. Commissioner Holliday answered in the affirmative.

Representative Richards asked about Commissioner Holliday's take on the No Child Left Behind (NCLB) scores. Commissioner Holliday stated there were mixed reviews. He said that the performance of students is directly tied to the effectiveness

of teachers, and the focus is how we can improve the effectiveness of teachers and instruction. We need to raise accountability and standards. He believes that NCLB needs to move to a growth model. Representative Richards asked if there were lessons learned or if there were notable improvements. Commissioner Holliday responded that there were slight improvements in math but reading is flat. He added that the focus right now is reading because it is the foundation for all learning.

Representative Henley stated that there are two forces at work that adversely affect Kentucky's financial structure; one being that we have, for more than a decade, been moving from a manufacturing-based economy to a service-based economy and Kentucky has been heavily reliant on manufacturing, the automobile industry, and we do not tax services. The second force is internet shopping and the fact that many times no sales tax is collected. Representative Henley indicated that perhaps we are moving toward an interstate compact with some states and that may help to alleviate some of the problem. He stated that because of the growth in internet shopping that our sales tax collections will not keep up with inflation.

Representative Miller stated that he would like to follow federal guidelines in regards to test scoring for Limited English Proficient (LEP) children. Federal guidelines state there is a five-year waiting period before testing counts and Kentucky guidelines state there is just a one-year waiting period. He feels that schools with large numbers of LEP children are being penalized.

Representative Moberly thanked Representative Henley for a very astute analysis of the Kentucky sales tax issue regarding internet sales. He added that Kentucky needs tax reform as the Commonwealth moves to a service-based economy.

Representative Moberly urged Commissioner Holliday to get involved in the failing schools battle and not just to leave it to the legislature.

Chairman McGaha thanked Commissioner Holliday for appearing before the committee. He recognized that Kentucky faces great challenges but continues to do great things whether the economy is strong or weak. He stated that as long as we have good and dedicated teachers, and students who will come to school committed to learn, that Kentucky will survive. He then introduced and welcomed new LRC employee Amie Elam, committee assistant.

There being no further discussion, the meeting was adjourned at approximately 11:40 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education Minutes of the 2nd Meeting of the 2009 Interim September 24, 2009

The second meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2009, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Tommy Thompson, Co-Chair; Senator Tim Shaughnessy; Representatives Will Coursey, Charles Miller, Carl Rollins II, and Dottie Sims.

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

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

Chairman McGaha began the meeting by welcoming Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE), who addressed the impact of budget reductions on KDE and on local school districts.

Chairman McGaha asked about the use of flex funds and if there were a primary target where the money has been rechanneled. Commissioner Holliday responded that he does not know yet where the funders were moved but that would come in a monthly report. Mr. Desai said that KDE will provide that information as soon as it is available. He noted that funds cannot move from preschool but a district may move funds from Extended School Services (ESS) or other areas. Dr. Holliday said that from speaking to superintendents he sensed local school districts were using local dollars to cover the textbook shortfall because Professional Development (PD) and ESS had already been reduced in the budget.

Representative Miller inquired about spending money on Title I. He said that by having deadlines during the school year money is often wasted and asked why the deadline is September 30, so close to the beginning of the school year. Commissioner Holliday said that the issue is the Federal Fiscal year which begins October 1. The districts should

spend Title I monies received from the American Recovery and Reinvestment Act (ARRA) by the end of the school year in fiscal year 2011. They could carry over some of the dollars through September 30 but it should be used for things like materials, supplies, and software licensure.

Representative Moberly asked for an explanation of the four Race to the Top criteria. Commissioner Holliday replied that those were the options for school reform in the lowest performing 5% of schools. Option one, according to the current guidelines, is to close the school and send the students somewhere else. Option two would be a reform effort to fire the principal, replace 50% of the staff, and reform the school. Option three would be the district or the state could contract with a provider to come in and reform the school. Option four would be to transform the school with a very prescriptive list of assurances that are very similar to the four areas that are in the Race to the Top dollars which are standards, teacher/principal effectiveness, data systems, and focusing on low performing schools. The final guidance for the application is not yet available from the United States Department of Education. Dr. Holliday stated that the plan is to introduce this early and let everyone know the final guidelines and then engage in conversations about Site Based Decision Making, principal effectiveness, teacher effectiveness, and other barriers. Representative Moberly asked when the final guidelines would be provided. Commissioner Holliday answered most likely in December. Representative Moberly asked if the Commissioner planned on correlating these dollars with the Commonwealth School Improvement Fund. Commissioner Holliday said yes and that he had an internal task force in place to make ensure that the federal guidelines were aligned with Senate Bill 1. He assured the committee that efforts to turn around low performing schools and ensuring the effectiveness of our assist model and our Title I school improvement model are integrated, and by doing this KDE hopes to leverage the dollars to do one model rather than two or three different models.

Representative Moberly inquired as to what Commissioner Holliday meant when he said that this is where the charter school language would come in. Commissioner Holliday responded that in the ARRA in the School Improvement Grants and under Race to the Top, the language implies that states should have no barrier to limiting the use of high quality charter schools for the purpose of turning around low performance schools. Representative Moberly

asked for a definition of charter schools in that language. Commissioner Holliday responded that there was not necessarily any definition in the language, but what he is pushing and would encourage is a conversation between local districts and local school boards about working with providers, a team of teachers, maybe a university, or someone that could bring in a new reform model. Representative Moberly asked if it would be up to the legislature to define what a charter school is. Commissioner Holliday responded yes. Representative Moberly asked if KDE would be proposing legislation on allowing and defining charter schools and School Improvement Grants. Commissioner Holliday stated that there is a team that will be meeting with key leaders to prepare for the session. Representative Moberly asked if the \$47 million amount mentioned by Commissioner Holliday was the amount that Kentucky could potentially receive under the federal program. Commissioner Holliday responded yes and added that Kentucky would continue to receive the current \$8 million a year. Dr. Holliday stated that the \$47 million is a one-time infusion of money that would be spread over three fiscal years. Representative Moberly asked if there would be accountability factors put in place regarding this money, especially as it is a larger amount than is usually received. Commissioner Holliday said yes.

Representative Rollins asked if all four options under Race to the Top had to be considered or if it could be a combination. Commissioner Holliday stated that there are some limitations currently in the language and that they would not want to force all schools to use the same model, so he does not want to be in the position of forcing a local Superintendent and board to have to choose between two options with one of them being to close the school. He stated that KDE would like to have all four options.

Chairman McGaha asked how much local input would be considered in making the choice or if this would be a mandate from the legislature. Commissioner Holliday stated that it would always be up to the local board and the local superintendent; this just provides them options for when they have tried everything else unsuccessfully. Senator McGaha asked if he was right in assuming that the legislature would be responsible to define and clarify the options but the actual choice would be left up to the local board. Commissioner Holliday responded in the affirmative but added that after a certain period of time if the school had not turned around then there would be more

control at the state level.

Senator Shaughnessy asked what group of schools Race to the Top focused on. Commissioner Holliday responded all schools. Senator Shaughnessy asked about the initiative that focused on the lowest performing schools. Commissioner Holliday said this was School Improvement Grants. Senator Shaughnessy asked if the four criteria were focused on the federal flow of resources of the lowest performing schools. Commissioner Holliday answered that the Race to the Top has a focus on turning around low performing schools as well as School Improvement Grants. Senator Shaughnessy asked what source of federal funding the four components related to. Commissioner Holliday stated that the charter school issue was one of nineteen criteria within Race to the Top. Senator Shaughnessy wanted to know if Kentucky would indeed be one of those states that would have a barrier to charter schools, as Kentucky law does not currently allow charter schools, and would that eliminate Kentucky from being eligible for funding. Commissioner Holliday responded that it did not eliminate Kentucky and that they are working on making the application as innovative as possible to show that Kentucky has done good work and to improve our chances of receiving these funds. Senator Shaughnessy asked how many schools make up the top 5% of the lowest performing schools. Commissioner Holliday replied it could be anywhere from twelve to thirty depending on definition. Senator Shaughnessy inquired about the geographical locations of these schools. Commissioner Holliday responded that the schools are concentrated in urban areas.

Senator Shaughnessy recognized that Commissioner Holliday has been embraced statewide and is off to a good start. He then strongly suggested that Commissioner Holliday look to the legislature for definition of charter schools. He also pointed out that Commissioner Holliday had made many references to the relationships between our universities. He stated that there are some successful examples of where universities have developed primary and secondary relationships but the students that go to those schools would not be considered failing students. He cautioned against looking to the already challenged universities as an alternative to an existing model.

Chairman McGaha asked if the funds could be used for staffing. Commissioner Holliday responded in the affirmative adding that many of the districts have used Title I and IDEA funds to cover shortfalls in other funds.

Representative Flood stated that the given to districts was not to start new programming with this money, but to use it for seeding a few good ideas and not invest too much in staffing. Commissioner Holliday agreed.

Representative Richards asked how many school systems were taking advantage of changing buses to more fuel efficient models. Dr. Stinson said that he could get a report to answer this with more detail. He explained that there is a purchasing program in place and they develop specifications each year to maintain safety and fuel efficiency. Representative Richards inquired about hybrid buses. Dr. Stinson said there are two approaches as they look at the recovery act money; one is to help control emissions by modifying exhaust systems, and the second is to purchase hybrid buses.

Representative Richards inquired about technology in Kentucky's schools. Commissioner Holliday explained that we have a great team that is very focused on classroom and school districts. He said that he believes that Education Week would put us in the top 5% consistently across the nation. In early October, Microsoft will be announcing that we are the first state to go to Cloud Computing, giving a lot of our teachers and schools access to social networking within a safe environment. Measurable objectives will be out in early January.

Representative Coursey inquired about increases in the free and reduced lunch program resulting from the downturn in the economy. Commissioner Holliday said those numbers are not currently available and will be provided at a later date.

Senator Shaughnessy asked if a plan was in place for fiscal year 2012 if no federal funds are available. Commissioner Holliday stated that they will try to find external dollars, new dollars, or they will have to cut back on programs. He added that the state board is in the review process to make sure there is accountability for every flow-through dollar so that they can report to the legislature which programs seem to be effective for addressing needs-especially graduating more students and preparing more students for college. Representative Shaughnessy expressed his concern that with the influx of recovery funds that the inevitable is just being prolonged and that two years from now Kentucky may be in a worse position than if the problem was addressed now. Commissioner Holliday stated that when one is talking about cutting people's jobs it often just continues the cycle and if you can keep people working and spending dollars and investing in

their local communities it would be better in the long run. He added that it is hoped that the economy can be stimulated through things like school construction.

Chairman Thompson asked if superintendents were looking at SEEK being reduced. Commissioner Holliday said that superintendents were definitely looking at efficiencies and effectiveness, looking at every program and every dollar to make sure the focus is on kids and learning.

Chairman Thompson asked for an update regarding Senate Bill 1 and what kind of funding the implementation would impose on KDE and on local districts. Commissioner Holliday stated that the Council of Chief State School Officers (CCSSO) and the National Governors' Association (NGA) provided college readiness standards, and that there had been teams of teachers working this week to analyze those and provide feedback. The math standards are expected to be in by the end of October. The focus of the Race to the Top application is to try to get dollars from external sources rather than relying on Commonwealth dollars for PD and development of the assessments that Senate Bill 1 requires. The next two Senate Bill 1 Steering Committee meetings will focus on PD and what the anticipated cost will be.

Representative Flood recognized the good work that was being done to deal with an inadequate tax base, adding that she agrees with not invading the dollars that local districts have built up for emergencies.

Representative Miller stated his concern with replacing buses, which were deemed unsafe, and selling them to private drivers and then rehiring these buses for field trips.

Representative Moberly asked if Commissioner Holliday had been told by the administration that there would be a mid-year cut. Commissioner Holliday said that he had not been told of a cut, but that he was just always preparing and that he anticipated the recovery process was going to be slower so he was trying to be fiscally responsible.

Representative Moberly asked if Commissioner Holliday had been told that there would be any new money in the next biennium. Commissioner Holliday responded that he was told that there most likely would not be any new money. Representative Moberly stated that there was projected growth in the next biennium, with the only problem being that we are spending more than that growth brings us. Representative Moberly stated that there is more stimulus money going to education than any other area, so if the budget was cut according to the amount of stimulus money each area got in

the base in January, then education would be in the worst position. He stated that it was his understanding that the administration had committed to treating all of those funds as general funds when they are putting the base together so that the stimulus will come off the top and affect everyone equally so that those areas that received greater amounts of stimulus funds would not be disproportionately punished. Commissioner Holliday said that he had not yet heard that.

Representative Moberly inquired about what Commissioner Holliday was planning to do in respect to applying for Teacher Incentive Funds from the ARRA. Commissioner Holliday said that from his understanding the money was more likely to go to non-profits and Local Education Agencies (LEAs) rather than directly to states. Representative Moberly asked if local districts would be the ones applying for these funds. Commissioner Holliday said he would not know until he saw the guidelines.

Representative Moberly asked if Commissioner Holliday was aware of the pilot programs that were set up in Kentucky that provided money and got some results. Commissioner Holliday said that he would be sure to look into that. Representative Moberly inquired about the qualified school construction bonds and whether or not the application deadline had passed. Commissioner Holliday answered that the deadline for the first wave was October 1 and the second wave deadline was December 15. Representative Moberly asked if schools were fully apprised of this opportunity. Commissioner Holliday said that they did get the information out and that he will get another correspondence out about the second wave deadline.

Representative Moberly inquired about the 23 districts that were awarded diesel hybrid and emissions funds and asked if all districts were given the opportunity to apply for this. Commissioner Holliday answered in the affirmative.

Representative Richards asked about Commissioner Holliday's take on the No Child Left Behind (NCLB) scores. Commissioner Holliday stated there were mixed reviews. He said that the performance of students is directly tied to the effectiveness of teachers, and the focus is how we can improve the effectiveness of teachers and instruction. We need to raise accountability and standards. He believes that NCLB needs to move to a growth model. Representative Richards asked if there were lessons learned or if there were notable improvements. Commissioner Holliday responded that there were slight improvements in math but reading is

flat. He added that the focus right now is reading because it is the foundation for all learning.

Representative Henley stated that there are two forces at work that adversely affect Kentucky's financial structure; one being that we have, for more than a decade, been moving from a manufacturing-based economy to a service-based economy and Kentucky has been heavily reliant on manufacturing, the automobile industry, and we do not tax services. The second force is internet shopping and the fact that many times no sales tax is collected. Representative Henley indicated that perhaps we are moving toward an interstate compact with some states and that may help to alleviate some of the problem. He stated that because of the growth in internet shopping that our sales tax collections will not keep up with inflation.

Representative Miller stated that he would like to follow federal guidelines in regards to test scoring for Limited English Proficient (LEP) children. Federal guidelines state there is a five-year waiting period before testing counts and Kentucky guidelines state there is just a one-year waiting period. He feels that schools with large numbers of LEP children are being penalized.

Representative Moberly thanked Representative Henley for a very astute analysis of the Kentucky sales tax issue regarding internet sales. He added that Kentucky needs tax reform as the Commonwealth moves to a service-based economy.

Representative Moberly urged Commissioner Holliday to get involved in the failing schools battle and not just to leave it to the legislature.

Chairman McGaha thanked Commissioner Holliday for appearing before the committee. He recognized that Kentucky faces great challenges but continues to do great things whether the economy is strong or weak. He stated that as long as we have good and dedicated teachers, and students who will come to school committed to learn, that Kentucky will survive. He then introduced and welcomed new LRC employee Amie Elam, committee assistant.

There being no further discussion, the meeting was adjourned at approximately 11:40 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 2nd Meeting of the 2009 Interim September 24, 2009

The second meeting of the Budget Review Subcommittee on

Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2009, at 10:30 AM, in Room 131 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Sannie Overly, Co-Chair; Senator Ernie Harris; Representatives Hubert Collins, James R. Comer Jr., Tim Couch, Jim Gooch Jr., Keith Hall, Fred Nesler, Ancel Smith, and Ron Weston.

Guests: Representative Rocky Adkins; Russ Romine, Executive Advisor, Transportation Cabinet; and Mike Hancock, State Highway Engineer, Transportation Cabinet.

LRC Staff: L. Bart Hardin, Stewart Willis, Stephanie Craycraft, and Christina Williams.

Chairman Leeper began the meeting by requesting a motion to approve the minutes of the June 4, 2009 meeting. A motion was made by Representative Nesler, seconded by Representative Overly, and the minutes were approved.

Representative Collins asked the members to recognize Mr. Jack Fish, President, Kentuckians for Better Transportation, and congratulated him on his upcoming retirement.

Chairman Leeper welcomed Mike Hancock, State Highway Engineer, who introduced Russ Romine, Executive Advisor for the Transportation Cabinet. Mr. Romine provided a presentation outlining Federal Stimulus, State Bond, and GARVEE Bond projects, as well as an update on Transportation Investment Generating Economic Recovery (TIGER) grant application submissions on the Big Four Bridge, the Milton-Madison Bridge, and the Appalachian Regional Short Line project.

Chairman Leeper asked if bids were coming in close to estimates. Mike Hancock replied that bids were coming in much better than originally anticipated. There could be as much as \$25 million extra which could be used for other projects, due to over-programming the stimulus funding and under-runs in costs. Mr. Romine added that the amount of federal stimulus money available for programming was \$368 million, and with \$441 million in projects in the Highway Plan, that created a differential of approximately \$74 million. Lettings awarded or obligated made up the \$308 million, which left approximately \$120 million. With \$60 million remaining, there were \$60 million in projects with no funding. As projects are let, if bids are lower there would be more money to do more projects. The \$74 million in over-programmed projects has been

reduced to \$60 million.

Chairman Leeper inquired about the process for over-runs once construction has started. Mr. Hancock replied that as projects were established, other federal funds were included with the stimulus funds, with the hope that the other federal accounts would fill in the cost of over-runs.

Representative Overly asked that a copy of the list of 32 Transportation Enhancement Projects be provided to the committee, adding that the committee would like to see how the \$12.6 million was expended. She then stated that the Metropolitan Planning Organizations (MPOs) were not required to spend their 50% in the first six months, but have until March 2 to expend the funds, adding that three of the four have not yet approached the 50%. She asked if they would be able to comply with the 12-month requirement. Mr. Romine replied that there is an individual in the office of the State Highway Engineer that works directly with the MPOs to provide assistance. Mr. Hancock stated that the cabinet was monitoring their progress and actively participating in the process in order to help achieve the desired outcome, adding that if the funds were not used they could be lost to other states.

Senator Harris stated that the Louisville MPO includes Bullitt and Oldham counties. He said Shelby and Spencer counties are growing rapidly, and asked why they were not included. Mr. Hancock replied that the federal government would have to expand the MPO to include them.

Representative Nesler asked for a more specific explanation of authorized estimates. Mr. Hancock explained that when speaking of phases of projects and authorization amounts, using Allen County as an example, the "R Phase" indicates Right-of-Way, and the \$110,000 listed as "Authorized" indicates that those funds have been set aside and are being used for that project. When listed as "Estimated", that means that those funds have not yet been authorized, which could occur for a number of reasons. Representative Nesler inquired about the chances of the major portion of the projects being completed. Mr. Hancock replied that many of the bond-funded projects had design, right-of-way, or utility work that needed to be completed or undertaken. He added that by next year, many of the projects will be underway and under construction. He continued by saying that over-programming means there would not be enough bond money to cover all of the projects. The assumption would be that those bond-funded projects would be the priority, even though it

is clear that the money is not available.

Representative Overly requested an explanation of the over-programmed funds and the projects that would not be funded. Mr. Hancock replied that the purpose of over-programming was the recognition that when developing highway projects, there are many scenarios that can slow project development.

Chairman Leeper asked if the districts are being monitored to make sure they are using the best practices to get the work done. Mr. Hancock answered that they are being closely monitored. He said there are a lot of activities currently underway and all of the districts are preparing to move projects forward.

Representative Couch asked if some of the project design phases could be done in-house at district level. Mr. Hancock replied that is the very first thing considered when deciding to move forward with a design phase, and it is preferred to do as many in-house as possible. Representative Couch commented that several of the projects in Clay and Leslie counties could possibly be done in-house. He asked how many of those are currently being worked on in-house. Mr. Hancock replied that the districts look at all of the design projects to determine which could be done in-house and which need to be referred to consultants. Representative Couch asked that a list of projects that could be done in-house be provided to the committee, along with information regarding how far along those design projects have advanced. Mr. Hancock agreed to provide that information at a later date.

Representative Overly asked for an explanation of "Pending" and "Awarded" projects. Mr. Romine replied that "Awarded" means the project has been let and awarded. The "Pending" designation means that the authorization is in process and awaiting the Secretary's signature. Mr. Hancock added that it also includes approval by the Federal Highway Administration (FHWA), when the project is federally funded.

Representative Overly inquired about the "Re-Estimate" designation. Mr. Hancock replied that it means a project would be broken into two pieces, or there would be a subsequent breakout of costs, etc. The original project would show as having been re-estimated, meaning the project information is now showing under a sub-item within that project.

Representative Nesler asked for an estimate of how many projects will be awarded by the end of the year. Mr. Hancock replied that a few more bond projects should be award-

ed, adding that the real issue with the awards is that most of the focus has been on the federal stimulus projects. He anticipates more bond projects moving to construction by next summer. Chairman Leeper asked if those very large stimulus projects have limited the distribution of work across the state. Mr. Hancock replied that it varies by district.

Representative Collins asked if more errors occur with in-house projects. Mr. Hancock replied that they are confident with their in-house design teams and their abilities. Representative Collins inquired about projects designed below flood stage. Mr. Hancock replied those are very rare.

Senator Harris inquired about the prioritizing of the bridge projects. Mr. Hancock replied that there were numerous projects across the state that could have been submitted for the TIGER grant moneys, and it was decided to focus on a few projects due to the limitation of the funds. Senator Harris commented that other states have probably done the same.

Representative Hall inquired about the grant money and asked if any funds would be available for the Appalachian Regional Commission (ARC). Mr. Hancock replied that ARC funds are dedicated to certain routes, and in Kentucky right now those are US 460 in Pike county and US 119 in Letcher county. Representative Hall expressed his surprise that it did not include the Parkway.

Representative Collins asked if any ARC moneys could be used on the Parkway. Mr. Hancock said that the whole premise for the Appalachian highway program dates back to 1965. At that time there were a number of routes eligible for Appalachian Development Highway System (ADHS) funds, and over the last forty years many of those routes have been improved somewhat with ADHS funds. He added that now that the program is nearing completion, the last two routes in Kentucky that were on the original 1965 list that have not been improved yet are US 460 in Pike county and US 119 in Letcher county.

Chairman Leeper welcomed Representative Rocky Adkins, House Majority Floor Leader, to the meeting and invited him to ask questions. Representative Adkins thanked the committee for the opportunity, and asked if a highway project in one of the ARC-qualified counties is written into a federal act by Congress, could it then become an ARC funded project. Mr. Hancock replied in the affirmative, with one caveat. Any inclusion of a route into the ADHS program requires the route and the costs to improve it have to be made

part of the Appalachian cost estimate, which is a cost-to-complete document for all the ADHS system throughout the country. So, if Kentucky adds a section of mileage at a certain cost to improve, that mileage and that amount being added to the Appalachian cost estimate could increase the share of ADHS funding that Kentucky would receive; however, it would have to be approved by all of the ARC states. Representative Adkins inquired if it took an act of Congress to get that done. Mr. Hancock replied in the affirmative.

Representative Collins asked if it would take all the funds designated in the ADHS program for Pike and Letcher counties to finish the work in those areas. Mr. Hancock replied that is the current estimate.

Chairman Leeper asked if the TIGER project selection process was performed solely within the cabinet or if outside influences were considered. Mr. Hancock replied that it is an internal process. He added the reason for that was that it represented a significant allocation of the cabinet's own resources. If eighteen applications had been made rather than three, it would have cost much more.

Chairman Leeper asked if the process of writing letters of support for certain projects had been finalized, and he requested a list of those projects. Mr. Romine indicated they would provide the list to the committee at a later date.

Representative Nesler asked who made the decisions regarding project selection. Mr. Hancock replied the cabinet secretary, internal cabinet staff, and the Governor. Representative Nesler inquired about the criteria involved for project approval. Mr. Hancock answered that some of the projects were already underway, but not yet at the construction phase, adding that there were many projects under consideration and some of them had been given a letter of support. Representative Nesler asked what part the Kentucky Congressional Delegation would play. Mr. Hancock replied that there have been letters of support from Congress, but he was unsure how the FHWA would entertain Congressional input.

Chairman Leeper asked for a brief update on the tunnel portion of the Louisville-Southern Indiana Ohio River Bridges (LSIORB) project. Mr. Hancock replied that there are many issues being worked through regarding funding of the LSIORB, with one of those being whether there may be other cost-saving measures that could be applied to reduce the total cost of that project. Any options considered must be the best long-term business decision for that project, and any deviation from the cur-

rent design would require re-design which would incur more costs and more time. Senator Harris asked if the overriding issue was the historic home on the property. Mr. Hancock replied in the affirmative, adding that they were sensitive to environmental requirements associated with the development of the project.

Representative Overly inquired about federal highway funding. Mr. Hancock explained that a year ago Congress had added an extra \$7 billion to the Highway Trust Fund just to pay the bills on federal projects the states were doing. This year, Congress infused another \$7 billion just to keep the bills paid. Also, an issue identified in 2005 by the authorizers of the Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU) was that the money was likely not to be available in 2009 or 2010. At that time Congress said that if the moneys did not materialize, a certain amount would have to be rescinded from the authorization. As this year has played out, the FHWA has advised us that Kentucky would be subject to having the promise of that money being rescinded, which would result in a loss of \$150 million in flexibility at the federal level. That loss is huge for Kentucky and could result in disproportionate impacts to part of the state's federal highway construction program.

Representative Collins asked if there had been discussion of the continual downfall of revenue, and other ways of generating revenues. Mr. Hancock replied that Congress has made the states aware of the long-term viability of the Highway Trust Fund being in jeopardy. The cost of building and re-building roads and bridges is not going down. Representative Collins remarked that regardless of what the federal government does, Kentucky will have to find some sources for generating revenue.

Representative Weston requested recognition of a friend in the audience from District 37 in Louisville, Jeff Donahue. The committee welcomed Mr. Donahue.

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

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

**Minutes of the 1st Meeting
of the 2009 Interim
August 25, 2009**

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, August

25, 2009, at 9:45 AM, in Room 149 of the Capitol Annex. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jeff Greer, Co-Chair; Julie Denton, John Schickel, Dan "Malano" Seum, Tim Shaughnessy, and Brandon Smith; Representatives James R. Comer Jr., Will Coursey, Ron Crimm, Robert R. Damron, Mike Denham, Tim Firkins, Danny Ford, Jim Gooch Jr., Mike Harmon, Jimmy Higdon, Dennis Horlander, Brent Housman, Adam Koenig, Brad Montell, Jody Richards, Steve Riggs, Arnold Simpson, Kevin Sinnette, Wilson Stone, John Tilley, Ken Upchurch, and Ron Weston.

Guests: Ann Gregory, Dr. Stacy Trinkle, Janet Pope, Lorri Unumb, Autism Speaks South Carolina, Jeff Hadley, Louisville Home of the Innocents, Dr. Eric DeYoung, and Melodie Shrader, Kentucky Association of Health Plans.

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

Ann Gregory, parent of an autistic child, introduced the speakers who would be addressing the committee. Ms. Gregory thanked the committee for their time and consideration.

Janet Pope stated that she is a parent of an autistic son "Austin", who when initially diagnosed was denied coverage for Applied Behavior Analysis (ABA) therapy by both Aetna and Blue Cross and Blue Shield. Both insurance companies stated that autism was a "nervous mental condition" that they would not cover. She stated that in addition to Austin, she has three other children, but knew that she and her husband had to find a way to help Austin get ABA therapy. She said four years after his initial diagnosis an ABA consultant opened an office in their area and Austin began treatment. At that time, they also began to accumulate the mountain of debt that they have incurred for his treatment. Ms. Pope stated that up until the day they took Austin to his first appointment he had not spoken a word. After one hour with the therapist he spoke his first words. He began a 35 hour per week program, and in two months he recognized shapes, letters, words and spoke his first sentence. His therapy has continued for seven years and he can now read, do math and is functioning at a 5th grade level. She stated that his accomplishments are due to the ABA therapy he has received. She stated that Kentucky must rise to the challenge to make sure that all autistic children can receive ABA therapy.

Lorri Unumb, Senior Policy Analyst, General Counsel for Autism

Speaks South Carolina, and a parent of an 8 year old son with autism addressed the committee. She stated that autism is a medical condition, brought on through no fault of family. She stated that autism is actually an imprecise term and that some people use it interchangeably with "autism spectrum disorder" (ASD) and others use it to mean one of the ASDs. In fact, there are three distinct diagnoses within the family of autism spectrum disorders. The umbrella diagnostic category is called pervasive developmental disorder. Within that umbrella category are 3 conditions known as ASDs: Autistic Disorder (or "classic autism"), Asperger's Syndrome, and Pervasive Development Disorder-Not Otherwise Specified (PDD-NOS).

She stated that across the spectrum, people vary greatly in terms of type and severity of deficits. Interestingly, ASD's are 4 times more common in boys than in girls. Although there is no known cure for autism, it can be treated so that the symptoms are not disabling. A non-verbal child can gain the ability to communicate, and a non-social child can gain interaction skills. She stated that while those affected are not cured, they can overcome the disabling aspects of the condition. The most commonly-prescribed treatment protocol involves a therapy called "Applied Behavior Analysis," or ABA. This is a therapy that has been used for many decades to treat autism, and yet the insurance industry continues to deny coverage for ABA therapy, often on the basis that it is "experimental." According to Unumb that self-serving conclusion is simply not supported by the science, the Surgeon General, the National Research Council, and the American Association of Pediatrics (AAP) all have endorsed ABA. Studies show that if ABA therapy is administered intensively and by properly-trained therapists, approximately half of the patients treated will "overcome" their autistic characteristics to such an extent that they can enter 1st grade indistinguishable from their peers, and the other half make significant gains as well, such that they need less support for the rest of their lives. She stated that ABA must be administered intensively, often 40 hours per week and this becomes very expensive. She stated that her own son's autism is very severe, and his therapy has cost \$75,000 out-of-pocket per year. She said that because of this extraordinary medical expense she and her husband have been audited on their taxes three times. She said that most children don't require this much therapy, but the truly severe children do. She stated that fortunately, she and her husband are blessed with

good jobs, and are able to sacrifice to afford the therapy for their son. She asked, how many Kentucky families have that kind of money to sacrifice, even half that much? She stated that many autistic children are going untreated and it is sad that in the USA, we know of a treatment that works, and yet, we have children who cannot get the treatment they need because their parents are not wealthy. And it is not only sad, it is unfair, given that these families are paying premiums every month to cover their children. These are families who are doing the right thing, by buying insurance for their families to insure against exactly this kind of unforeseen and unprovoked medical disaster. She stated that a 2006 study from the Harvard School of Public Health found that if a child with autism is not properly treated, the societal cost for that one child over their lifetime is \$3.2 million dollars. In addition, a 1998 study for the state of Pennsylvania projected an actual cost savings to the state of over a million dollars per child. She said, applying the math, of the 1 in 150 Kentucky children diagnosed, and only a few getting treatment, when you multiply each remaining child by over a million dollars that will be how much Kentucky taxpayers will pay if the children do not get treatment they need. She urged the members that Kentucky cannot handle this expense in its budget. She stated that just 15 years ago, the prevalence rate of autism was 2-5 per 10,000 and today it is 1 in 150. Scientists don't know the reason for the increase, but we all understand the ramifications. She stated that there is a huge autism tsunami coming, and it is going to cost the state an extraordinary amount of money in special education and adult care if the current generation of autistic children do not get the treatment they need. It is her opinion that without private insurance playing its part, the treatment is simply not going to happen. Faced with this reality, other states, 13 to be specific, now require insurers to play their part. Twelve states have passed legislation, in the past 2 years:

South Carolina (2007), Arizona (2008), New Mexico (2009), Texas (2007), Louisiana (2008), Montana (2009), Pennsylvania (2008), Nevada (2009), Florida (2008),

Colorado (2009), Illinois (2008), and Connecticut (pending signature).

She stated that Indiana passed legislation 8 years ago in 2001, the same year the Attorney General in Minnesota entered into a settlement agreement with that state's major insurer (Blue Cross and Blue Shield) to require coverage for autism, including coverage of Applied Behav-

ior Analysis therapy. She stated that many other states are considering similar legislation.

She stated that one of the reasons she wanted to speak to the committee today was because she worked on the legislation in South Carolina that started the recent movement toward coverage, and has seen it successfully implemented in South Carolina and other states. Children who have never before been able to receive treatment are making remarkable progress. Providers have joined adequate networks of participating providers and have negotiated satisfactory reimbursement rates. Despite the doomsday predictions from opponents that she has heard in state after state, none of South Carolina's insurers have left the state, and no businesses have exited the state because of this benefit. She stated that the impact on premiums has been negligible. In Indiana, the Department of Insurance called the financial impact "unmeasurable" even years after the coverage became effective. The insurance industry's own association, the Council for Affordable Health Insurance, estimates that mandated autism benefits increase premium costs by less than a 1%. She said that an independent cost analysis prepared specifically for Kentucky also arrived at less than 1%. She stated that some opponents argue an autism mandate will increase premiums 2-3%, and 5,500 people will lose insurance for every 1% that premiums increase. She urged that before members accept that information, please diligently investigate the opponent's facts regarding the prediction of a devastating premium increase. Insurance companies in Indiana and Minnesota have been tracking this data for years, and they know exactly how much it costs to fully cover autism. Furthermore, in states where an autism mandate has passed, the overall impact on the economy has been positive, particularly in terms of job creation. Thousands of people have been trained and are now working full-time as therapists with children with autism.

Stacy Trinkle, Physician/Parent, stated that she sees 25-30 patients per day in her practice, and of those 25-30 patients, 2-3 are autistic patients. She stated she also tries to see one new autistic patient per day. She stated that autistic children are very treatable, and with early diagnosis and intense ABA therapy, autistic children can be functioning members of society. She stated that she is the mother of 13 year old autistic twin boys. Her sons have had intense ABA treatment, and at age 4 they were receiving 25 hours per week. Now, at age 13, they are entering the

6th grade and will be taking standardized tests this year. They are also involved in Boy Scouts and attend summer camp. She stated they are able to function unassisted in school and manage everyday tasks on their own. Her sons still receive 6-8 hours of ABA therapy per week. She stated that her husband is a teacher and carries the family health insurance, they live in southern Indiana and her practice is in Louisville. She stated her children have had access to their therapy because of Indiana's health insurance mandate granting coverage for autism and ABA therapy.

Representative Steve Riggs asked if ABA therapy is beneficial to someone with Asperger's Syndrome and Pervasive Developmental Disorder (PDD). He also stated that he supports this legislation.

Ms. Unumb stated that ABA therapy is very beneficial to both disorders.

Representative Mike Denham asked if the increase in the number of autism cases has been tied to genetics in any research studies. He also asked if the proposed Health Care Reform Plan includes treatment of autism.

Ms. Unumb stated that the cause has not been determined. She stated that one of the reform bills was amended to include behavioral health treatment.

Representative Brent Housman asked how many autistic children are in Kentucky. He also asked what the fiscal impact has been in Indiana and Minnesota.

Dr. Stacy Trinkle stated that in Kentucky 1 in 250 children are diagnosed with autism. She said that autism exceeds diabetes and cancer diagnoses.

Ms. Unumb stated that the insurance companies have not shared the fiscal impact data.

Senator Ray Jones stated that he has pre-filed a bill in the Senate for the 2010 Regular Session that addresses insurance coverage for autism treatment. It is the same bill he filed in the 2009 Regular Session (Senate Bill 74). He stated that the Autism Treatment Center at the Highlands Medical Facility was recently opened in Eastern Kentucky. He said that he realizes his bill calls for a health mandate, but, sometimes the legislature has to mandate coverage to do the right thing. He feels that Kentucky needs to step up and help autistic children and their families. He stated that the fiscal note that was attached to Senate Bill 74 in the 2009 Regular Session indicated a \$1.20 per month increase in insurance premiums.

Representative Bob Damron asked if this would be applied to all insurance products or just group plans.

Senator Jones stated it would apply to all groups.

Representative Greg Stumbo, Speaker of the House, stated that the Autism Treatment Center in Eastern Kentucky partners with the Cleveland Clinic. He said this is a very worthy cause and urged the committee to give serious consideration to this legislation in the upcoming 2010 Regular Session.

Melodie Shrader, Kentucky Association of Health Plans, stated she worked with the groups involved during the 2009 Regular Session and will be available to do so for the 2010 Regular Session and hopes that a solution will be worked out for Kentucky.

The minutes from the November 2008, meeting were approved.

Meeting adjourned.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2009 Interim September 30, 2009

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Wednesday, September 30, 2009, at 10:00 AM, at Eastern Kentucky University in the Perkins Building. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julian M. Carroll, Julie Denton, Dorsey Ridley, John Schickel, Dan "Malano" Seum, and Brandon Smith; Representatives James R. Comer Jr., Will Coursey, Ron Crimm, Mike Denham, Danny Ford, Jim Gooch Jr., Mike Harmon, Dennis Horlander, Dennis Keene, Adam Koenig, Brad Montell, Jody Richards, Steve Riggs, Wilson Stone, Tommy Thompson, John Tilley, and Ken Upchurch.

Guests: Representative Harry Moberly, Representative Don Pasley, Dr. Doug Whitlock, President, Eastern Kentucky University, Dr. Robert Rogow, Dean, College of Business and Technology, Dr. Peter Kensicki, Director, Insurance Studies Program, Sharon Clark, Commissioner, Department of Insurance, Bill Nold, Director, Health and Life Division, and Russ Coy, Captive Coordinator.

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

Representative Jeff Greer, Chairman, welcomed everyone to the meeting and recognized Representative Harry Moberly and Representative Don Pasley.

Representative Harry Moberly

and Representative Don Pasley welcomed everyone to their District and to Eastern Kentucky University. The Representatives encouraged the committee members to tour the campus and see the many changes taking place at the University.

The minutes of the August 25, 2009, meeting were approved.

Dr. Doug Whitlock, President, Eastern Kentucky University, welcomed everyone to the campus and encouraged the members to feel free to walk or drive around campus. He stated that the great pride that has been taken to improve and maintain the campus has put the university in the top 10% of colleges in the United States. He stated that new and exciting changes going on off-site and around the campus include a new facility in Manchester; a bio-fuel research project centered in Clark county; and, under construction on campus, a new performing arts building and science building.

Dr. Doug Rogow, Dean, College of Business, stated that Eastern is very committed to its Insurance Studies Program. He stated that the program started 12 years ago and will open a new facility in the spring semester of 2011. He stated that there has been a steady increase in enrollment in the program and Eastern has a goal of being the best program in the region as well as in the Nation. He stated that the university is in the process of a nationwide search at this time to name a replacement for the retiring of Director of the Insurance Studies Program, Dr. Peter Kensicki.

Senator Julian Carroll asked if the Insurance Studies Program offers education in the field of Actuarial analysis. He stated that he feels this is important in regulating insurance for state government.

Dr. Rogow stated that there is not a specific program offered for actuarial analysis, but the university offers strong programs in statistics and mathematics that may prepare students to enter the actuarial field.

Representative Jeff Greer noted that the roles of actuarial analysts have changed and now involve computer technology as well as math. He pointed out that the job placement for the Insurance Studies Program is in the high 90% at Eastern and commended the program with that very impressive rating.

Dr. Kensicki stated that they have a wonderful network of individuals in the program that have local and national exposure, and that has enabled the program to place more individuals.

Sharon Clark, Commissioner, Department of Insurance, stated that the insurance industry in Kentucky is alive and well. She stated that there are 1,700 companies doing business

in Kentucky that offer all lines of insurance and it is a \$16.7 billion dollar industry. She stated that the Department of Insurance has a staff of 125 at the present time, she stated that the department has addressed 4,500 consumer complaints in the past year. She updated the committee on the status of American International Group (AIG). She stated that they are continuing to operate and pay claims. She pointed out that maintaining financial solvency is the most important issue at this time, so that AIG can continue to pay claims.

Bill Nold, Director, Life and Health Division, Department of Insurance, updated the committee on the Kentucky Long-Term Care Partnership Program. He stated that in 2008, House Bill 259 created the program and it was intended to insure against the cost of providing for long-term care needs of Kentucky citizens without depleting citizens assets and to insure against the burden on the Kentucky Medicaid Program. The program is a partnership among the Department of Insurance, Department of Medicaid Services and private insurance companies offering long-term care insurance. The enabling legislation, now codified in KRS 304.14-640 through KRS 304.14-644 and KRS 205.619, requires the Department of Insurance and Department of Medicaid Services to take various steps to establish the program. He stated that because the program is in the beginning stages, there is little data to report, but, the department should have figures and national data reports to share by the next reporting period. Currently, interested companies are still working to file new or amended policy forms in order to participate in the program.

Senator Tom Buford stated that he had received phone calls from upset retired teachers regarding premium increases of 40-50% to long-term care policies that were acquired through the Kentucky Education Association.

Mr. Nold and Commissioner Clark stated that the Department of Insurance is very much involved in that issue and will be at the hearings that will be taking place in October between the retired teachers and the insurers. Commissioner Clark stated she had received over 600 letters from the retired teachers.

Commissioner Clark gave an update on the Anthem Insurance/Norton Healthcare contract dispute which is currently ongoing, particularly in the Louisville Kentucky market. She stated that the Department of Insurance has received a number of inquiries from consumers, providers, and the media concerning the failure of Norton and Anthem to reach a con-

tractual agreement to provide health care services to Anthem policyholders. The inquiries received appear to be the result of policyholders being given incomplete or inaccurate information. While the department does not have the authority to become involved with contractual negotiations between insurers and providers, the department does have consumer protection responsibilities, and they are taken very seriously. She stated that the department has to be sure that those patients who are entitled to continuity of care under state law receive the medical services they need with as little disruption as possible. Under Kentucky law, providers and insurers must include a continuity of care clause in any contract to be triggered upon termination of that contract. This provision would impact someone who was in an inpatient facility at the time the contract ended, someone who was undergoing an active course of treatment, or a woman in the fourth month or later of pregnancy. For these patients, insurance coverage should continue as usual. Until an event triggers the end of continuity of care (discharge or completed treatment or the end of the post-partum period), these patients can continue as they did prior to the end of the contractual agreement between Anthem and Norton without the fear of balance billing by the hospital. She said that the department fully expects confusion among frontline employees of Anthem and Norton to be cleared up immediately so that accurate information can be given to the policyholders. She stated that the department realizes that there will be grey areas and questions about whether a particular case falls under continuity of care provisions. Consumers who are unable to resolve their issues with Anthem or Norton are encouraged to contact the Kentucky Department of Insurance with questions or to file a complaint. The consumer protection investigators can be reached by calling the toll-free number at 1-800-595-6053. She stated that no one wants a cancer patient or an expectant mother to have the added stress of worrying about insurance coverage. That's why everyone involved is encouraged to be sure these consumers receive the protections guaranteed by Kentucky law.

Commissioner Clark updated the committee regarding Kentucky League of Cities (KLC) and Kentucky Association of Counties (KACO). She stated that the department has met with both and reviewed organizational and insurance market practices. She stated that they were very responsive. The Kentucky League of Cities has already taken corrective action, and Kentucky Association of

Counties is working on its corrective action plan and hopes to implement it very soon.

Russ Coy, Captive Coordinator, Kentucky Department of Insurance, addressed the committee regarding Kentucky's Captive Industry. He stated that Kentucky is among the top eight states in the nation and the top 17 locations in the world for captive insurers according to the March 2009 issue of Business Insurance. The Commonwealth ranked 9th in the nation and 21st worldwide in last year's rankings. He explained that a captive insurance company is a specialized type of insurance company formed to insure the business risks of a corporate parent and affiliates, or a group of similar entities (such as a trade association). Captive insurers are licensed and regulated by the Kentucky Department of Insurance. He stated the number of licensed captive insurers in the Commonwealth grew from 31 to 67 during 2008. He stated that Bermuda leads the world with 960 captives. Vermont is the top U.S. captive domicile, and 3rd worldwide, with 557 captives. According to Business Insurance, Kentucky and Utah were the only states to add at least 20 captives in 2008. Experts interviewed for the publication cited the convenient, low-cost locations as a reason for the growth in those two states. In addition, those interviewed pointed out the "flexibility and responsiveness" of the regulators, while adding that captive staff in both domiciles could also be "hard-nosed," particularly when evaluating solvency, actuarial studies, and business plans. He stated that significant efforts have been made to attract this segment of the market to Kentucky. During the last four years the captive law has been updated in Kentucky, by soliciting support from the legislature and industry. He stated that an executive education conference at Churchill Downs in November 2008 attracted about 65 industry representatives from across the United States. He said that with support, he is highly confident that Kentucky can continue to grow and become a major domicile. He pointed out that in addition to providing an important risk management tool for regional businesses, captives attract professional jobs and capital to the state.

With no further business, the meeting adjourned.

**INTERIM JOINT COMMITTEE
ON
ECONOMIC DEVELOPMENT
AND TOURISM
Minutes of the 2nd Meeting
of the 2009 Interim
September 17, 2009**

The 2nd meeting of the Interim

Joint Committee on Economic Development and Tourism was held on Thursday, September 17, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Eddie Ballard, Co-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, Ray S. Jones II, Katie Kratz Stine, and Jack Westwood; Representatives Linda Belcher, Kevin D. Bratcher, John "Bam" Carney, Leslie Combs, Will Coursey, Mike Denham, Myron Dossett, Ted Edmonds, Kelly Flood, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Joni L. Jenkins, Thomas Kerr, Martha Jane King, Adam Koenig, Tom McKee, Tim Moore, David Osborne, Ruth Ann Palumbo, Don Pasley, Dottie Sims, Ancel Smith, Fitz Steele, Ron Weston, and Addia Wuchner.

Guests: Larry Hayes, Secretary and Holland Spade, Executive Director, Office of Legal Services, Kentucky Cabinet for Economic Development; Barry McNees, Developer, Lexington Distillery District Project; Eric Gregory, President, Kentucky Distillers' Association; and Cheryl Hatcher, Chief Sales and Marketing Officer, Department of Travel and Tourism, Kentucky Tourism, Arts and Heritage Cabinet.

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

A motion by Representative Pasley and seconded by Representative Smith to approve the minutes of the July 30 and 31, 2009, meeting passed by voice vote.

Secretary Larry Hayes and Holland Spade of the Kentucky Economic Development Cabinet discussed Kentucky's economic development strategy and the provisions of House Bill 3 passed during the 2009 Special Session. Ms. Spade gave an overview of the new cabinet programs created by HB 3: the amended Kentucky Reinvestment Act (KRA), the Kentucky Business Investment (KBI) Program, the amended Kentucky Enterprise Initiative Act, the Tax Increment Financing (TIF) Loan Support Program, and the Railroad Access Funds. Ms. Spade said immediately following the special session the cabinet filed an emergency regulation as well as a standard regulation that included application guidelines for the KBI and the KRA. She noted that fact sheets and a comparison chart of the different programs are available on the cabinet's webpage.

Ms. Spade said that with the new economic development tools in place, informational meetings are being held throughout the state by regional agency representatives with

existing businesses as well as others who are involved in bringing new projects to the state.

Ms. Spade said that eleven new KBI projects and one KRA project have received preliminary approval from the Kentucky Economic Development Finance Authority (KEDFA) Board, and there are also several potential KRA projects in progress.

She said, the Emergency Small Business Jobs Stimulus Act is not applicable until tax year 2012; however, a company would use 2010 as its base year and would need to create and maintain at least one new job for an entire year and purchase equipment in 2011. Therefore, the cabinet is now marketing the program and drafting administrative regulations. Cabinet representatives are meetings with stakeholders for informational purposes and to determine the best implementation methods.

Referring to the TIF Loan Support program, Ms. Spade explained that it is not a loan program. She said the program creates a supplementary reserve account to help sell bonds related to a particular TIF project. The program is only applicable to five signature projects. All projects involve the sale of bonds and the tax increment is used to repay debt service on those bonds. The program was created to help make those bonds more marketable by creating an additional supplemental reserve for payment of the debt service. She noted that the Cabinet is currently working with other agencies on an implementation method for the program.

Ms. Spade said another feature of HB 3 was the railroad access program. While highway construction contingency funds have been available through the Transportation Cabinet for awhile, the new program makes some railroad crossings and spurs eligible for those funds. The project must be related to specific economic development projects consistent with current road use. The Economic Development Cabinet is now working with the Transportation Cabinet to formalize the request process. Funds will not be available until July 2010.

Representative Moore questioned whether TIF projects were living up to expectations. Secretary Hayes responded that the TIF projects are relatively new and performance studies might be premature but the cabinet will look into it. Representative Moore said he was interested in the impact of HB 3 thus far. Secretary Hayes said there has been much interest in the HB 3 programs.

Secretary Hayes noted the success of Toyota Motor Manufacturing and the state's ability to invest in existing businesses such as Ford Motor Company. He said with the current

state of the economy, the programs created in HB 3 will allow the state to be more opportunistic. He noted that cabinet representatives worked with General Electric Company while in competition with Indiana to create 300 new jobs in Louisville's Appli-ance Park.

Secretary Hayes also noted that the film tax credits provided for in HB 3 contributed to increasing filming in Kentucky of the movie "Secretariat" by three weeks.

Secretary Hayes said the Cabinet is restructuring and has already cut staff from 126 to 96 employees by streamlining the agency functions. The Secretary said he intended to keep an open line of communication with the legislature on the Cabinet's progress.

Responding to Senator Kerr's questions, Ms. Spade listed the five TIF-eligible signature projects: the Western Kentucky University project, Museum Plaza in Louisville, Ovation in Newport, the Center City project, and Nucleus in Louisville.

Responding to Representative Hall's question, Ms. Spade explained that under KBI, the timeframe for project approval varies based on how quickly the company's application progresses.

Responding to Representative McKee's question, Ms. Spade said that under HB 3 a small business is defined as having 15 employees or less.

Referring to the downturn in the economy, Representative Denham asked in what area would newly-created jobs be developed. Secretary Hayes said jobs would come from businesses that are currently in Kentucky, such as the automotive industry, which includes its supplier base, existing manufacturers, and recruitment projects.

Next, Barry McNees, Developer of the Lexington Distillery Project gave an overview of the history of the area and the master plan for its revitalization. One of two Lexington TIF projects currently being considered by KEDFA, it represents the first TIF application for mixed-use development of a blighted area. The area has experienced population decline, has a greater than fifty percent poverty rate, and has lost most of its commercial base. The 300,000 surviving square feet of the original distilleries has been placed on the National Register of Historic Places. He noted that the local community is in full support of the project. The project received preliminary approval in February 2009 and secondary approval will be considered at the next KEDFA board meeting.

Mr. McNees said he is working with the Kentucky Heritage Council on receiving historic tax credits. Be-

cause this is a blighted area, he has also been working with Community Venture Corporation on new markets tax credits. Mr. McNees cited some of district's success stories, which include Buster's, Lexington's largest non-arena live music venue that has 40 full and part-time employees; Lexington's first downtown doggie-daycare center for active professionals, which employs 2 full-time and 6 part-time employees; a theatre props and scenery manufacturing business employing 8 full-time and 67 part-time/seasonal employees; as well as business space for four local artists. He noted that thus far this has been accomplished without any infrastructure investment. Mr. McNees said one area of concern is an item built into the legislation that requires an independent consultant's report. He recommended that the analysis be done before receiving preliminary approval rather than afterwards. Mr. McNees said the distillery project currently does not qualify for state's revolving fund which would be beneficial to this type project.

Mr. McNees said this type of project draws progressive individuals and businesses. Four years in the making, the project is meant to provide interest in the Lexington community and be a springboard for other economic activity. He said the last remaining building of the Tarr Distillery and the James E. Pepper Distillery buildings are unique industrial architecture and merit preservation.

Representative Palumbo said this type project--the incorporation of art, history, residential areas and entertainment in blighted areas -- was the idea behind the original TIF legislation.

Representative Edmonds said this is an ideal TIF project with unlimited potential that he supports.

Eric Gregory, President of the Kentucky Distillers' Association (KDA), and Cheryl Hatcher, Chief Sales and Marketing Officer, Department of Travel and Tourism, Kentucky Arts and Heritage Cabinet, provided an update on the Kentucky Bourbon Trail. Mr. Gregory gave a brief history of Kentucky bourbon and the KDA. He said high-end bourbons (small batch, single barrel bourbons) are driving the recent bourbon revolution. Bourbon is a signature industry in Kentucky that supports 3,200 direct jobs with a payroll of \$244 million. Spin-off jobs include barrel production, bottling, grain suppliers, hospitality industry jobs, trucking, and more. He said the total economic impact was 9,848 jobs with an annual payroll of \$442 million. The bourbon industry contributes \$124 million in taxes annually. Every bottle of spirits produced in Kentucky and sold contributes to seven different taxes: the

ad valorem, the aging barrel tax, local and state taxes, the case tax, the state excise tax, the federal excise tax, the state wholesale tax and the state sales tax. This is nearly 60 percent of the price of every bottle of spirits sold. Bourbon is one of the United State's leading exports. Total exports for 2008 were \$1.1 billion.

Mr. Gregory said several distilleries are expanding to meet increasing tourism needs. Projects include \$7 million in renovations and upgrades at Jim Beam Distilleries, expansion of the visitors' experience at Claremont, \$36 million to increase distilling operations at Wild Turkey, \$4 million expansion of the Burnheim Distillery at Heaven Hill, and the addition of a new \$3 million visitor's experience and gourmet sandwich shop at Maker's Mark.

Mr. Gregory said he supports the Lexington Distillery District Project as well.

In 1999, the KDA formed the Kentucky Bourbon Trail based on tourism efforts in California's wine country and Scotland's Whiskey Trails. Mr. Gregory said there are eight participating distilleries. The most recent to join was Tom Moore Distillery in Bardstown, October 2008. Other KDA members are Buffalo Trace, Four Roses, Heaven Hill, Jim Beam, Maker's Mark, Wild Turkey, and Woodford Reserve. He noted that visitors responded well to the centralized location of the trail making it easy to complete in a long weekend. More than 1.5 million people from the United States and 25 countries have visited the trail in the last five years--350,000 last year alone. Mr. Gregory pointed out that participation in the bourbon trail has never decreased.

Mr. Gregory said the trail celebrated its 10-year anniversary May 2009 and issued a new logo and brochure. Particularly successful is the passport program which was launched August 2007 and was revamped June 2009. In the past two years, more than 2,500 visitors have completed the bourbon trail. He noted that visitor feedback has been overwhelmingly positive. Recently, there have been feature stories in the Washington Post, Los Angeles Times, Southern Living, New York Times, U.S.A. Today, Delta Sky, Associated Press and Conde Naste's Traveler. The September 2009 issue of Southern Living featured a six-page article on the bourbon trail. Also in their September 2009 issue, Conde Naste Traveler magazine named the Bourbon Trail one of the top 50 worldwide drives of a lifetime.

Cheryl Hatcher added that in the last two months, 1,000 bourbon trail passports have been turned in. She said the local, regional and national press coverage has helped the trail's

popularity. The United Kingdom office reports that bourbon and the bourbon trail is the main reason the UK press write stories on Kentucky.

Ms. Hatcher said many partnerships are forming with community tourism organizations. Some projects include Lexington's "Bourbons in the Bluegrass" campaign, "Wine and Spirits Tour" in Franklin, Woodford and Anderson County, Bardstown's new promotion, "Sample Our Spirit" and Louisville's "Urban Bourbon Trail" featuring historical landmarks and bars. Ms. Hatcher said along with the Department of Travel and Tourism, many restaurants, tour companies, specialty shops, and Kentucky publications are successfully marketing Kentucky's bourbon and the Bourbon Trail. She said October 2009 marks the inaugural "Bourbon Chase," a 3,000 runner relay race beginning in Bardstown and ending in Lexington.

Ms. Hatcher noted that "the Kentucky Experience" at the 2010 World Equestrian Games will be held in a 25,000 square foot facility that will feature bourbon distillers and allow for purchasing of "flights" of Kentucky bourbon, wine and ale.

Mr. Gregory noted that the Legislative Research Commission created a Bourbon Trail Caucus, which has over 50 members. He said the KDA will seek assistance in promoting the Bourbon Trail and will probably reintroduce the 2008 regular session "Tasting Law" designed to modernize Kentucky's bourbon tasting laws to allow for more marketing. The KDA will also promote streamlining the tax structure and reducing the tax burden on the bourbon industry. He noted that the KDA also supports local option elections for alcohol in state parks. He said all members of the KDA support promoting responsible consumption and share an increased commitment to fight underage drinking and drunken driving.

Mr. Gregory said only Kentucky has a bourbon trail. It is a unique bourbon experience featuring bourbon history, tours, tasting and more. He said increased tourism means more visitors and more jobs and revenue for local communities and the state and will keep Kentucky competitive in the global economy.

Chairman Ballard asked if other distilleries may join the KDA in the future. Mr. Gregory said the Medley Distillery in Owensboro is investing approximately \$25 million in renovating its facility. The KDA is working with the distillery in possibly joining the trail in the future. He also noted that Dr. Pierce Lyons with Alltech is creating single malt bourbon and the KDA is discussing his possible addition to the trail in the future.

Representative Flood asked if ex-

ported bottles of bourbon were also taxed at 60 percent. Mr. Gregory said he did not have the exact number but said he did not think so. He will follow up with the information.

Representative Wuchner noted that several producers from California will be making a short documentary on cooking with bourbon. Mr. Gregory added that cooking with bourbon has increased in popularity.

Representative Denham asked if membership in the bourbon trail lead to certain types of grants. Mr. Gregory replied no but there are matching funds from the Tourism, Arts and Heritage Cabinet through the KDA by promoting the Kentucky Bourbon Trail. Responding to Representative Denham's question, Mr. Gregory said Maysville is not part of the Bourbon Trail but visitors have expressed interest in seeing historical sites while participating in the tour. He said his agency is about to launch a website that will feature historical markers and other bourbon related places of interest for visitors. He said Maysville has a unique bourbon shipping past that could be featured. Representative Denham asked about the qualifications for joining the Bourbon Trail. Mr. Gregory said it is only open to distilleries but the membership standards committee is looking at ways to involve local convention and visitors' bureaus and other entities to be "friends of the bourbon trail" or "associate members" of the bourbon trail. The Bourbon Trail is a registered trademark of the KDA.

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

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 4th Meeting of the 2009 Interim September 14, 2009

The fourth meeting of the Interim Joint Committee on Education was held on Monday, September 14, 2009, at 1:00 PM, in Room 127, Student Union Building, Northern Kentucky University. Representative Carl Rollins II, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Walter Blevins Jr., David Givens, Dan Kelly, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives John "Bam" Carney, Hubert Collins, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Jim Glenn, Derrick Graham, Jeff Greer, Reginald Meeks, Charles Miller, Harry Moberly Jr., Jody Richards, Tom Riner, Charles Siler, Wilson Stone, Alecia Webb-Edgington, and Addia Wuchner.

Legislative Guests: Senators

Katie Kratz Stine and John Schickel; and Representatives John Will Stacy, Adam Koenig, and Sal Santoro.

Guests: Kyna Koch and Jonathan Lowe, Legislative Research Commission; Robert Brown, Teresa Moore, Gary Stephens, and Marcie Lowe, Educational Professional Standards Board; Gayle Hilleke, Kentucky Campus Compact; Wayne Young, Kentucky Association of School Administrators; Zack Wells, Rebekah Parvis, Gail Wells, Nancy Lang, Gerry St. Amand, and Eric Brose, Northern Kentucky University; Mona Ball, Susan Herron, and Terry Poindexter, Kentucky Education Association; Anna Marie Tracy and Phyllis Sparks, Boone County Schools; Rick Jones, Boone County Education Association; and Kevin Brown, Ken Draut, Terry Holliday, Kentucky Department of Education, and Jon Draud, Former Representative.

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

Representative Rollins asked for a motion to approve the minutes of the August 10, 2009, meeting. Representative Siler made the motion to approve the minutes, seconded by Representative Carney. The motion was approved by voice vote.

Representative Rollins introduced Dr. James Votruba, President, Northern Kentucky University (NKU) to give the committee an update of the NKU initiatives and performance report. Dr. Votruba introduced his panel, which included: Dr. G. Edward Hughes, President, Gateway Community and Technical College; Mr. Randy Poe, Superintendent, Boone County Schools; and Mr. Bill Scheyer, President, Vision 2015.

Dr. Votruba welcomed the committee members to NKU and acknowledged Dr. Robert King, President, Council on Postsecondary Education (CPE) and Mr. Joe Brothers, Chair, Kentucky Board of Education (KBE), and other distinguished community leaders. He said NKU continues to progress forward economically and socially by making early childhood through postsecondary education its cornerstone. He introduced Mr. Scheyer to give some opening remarks.

Mr. Scheyer discussed the partnership between Vision 2015 and NKU. He said three years ago, Northern Kentucky (NK) produced the boldest community vision the region had ever seen. He said the ten-year strategic plan for the nine counties in NK focuses on making the region highly competitive in the global economy of the 21st century. He said NK has determined that success depends on striking the proper balance between the six focus areas: economic development, educational

excellence, urban renaissance, livable communities, effective governance, and regional stewardship. He said NKU's signature goal is to create 50,000 new jobs by 2015. He said talent development and increased educational attainment levels are critical elements in meeting this goal.

Mr. Scheyer said NK accounts for nearly one in four net new jobs created in the state. He emphasized that NK must develop a talent force that matches the key NK industry growth potential areas of informatics, health care, finance and manufacturing technology. He said partnerships with NKU and Gateway Community and Technical College are essential in this endeavor.

Mr. Scheyer said the long-term strategy is to provide systems that help students of all ages to have the opportunities that they need to succeed and to compete effectively in this 21st century global economy. He said NKU is a key partner with early childhood development initiatives, the longitudinal assessment protocol, which tracks the results of students in the first five years of their student experience, and the Center for Educator Excellence. He noted that NKU trains 80 percent of local teachers, and focuses on education in the urban core. He also said the College of Informatics is playing an increasingly significant role in strategic initiatives within many of the focus areas that have been identified for Vision 2015.

Mr. Poe discussed Conner High School in NK as a success model for remediation reduction to increase college readiness. He said the target audience was high school seniors whose 11th grade ACT scores indicated they were not fully college-ready (ACT scores in the 15-19 range). He said seniors could take a transitional course in English (reading and writing) and/or mathematics to improve their skills. The course standards were based on those adopted by the CPE in 2004. Upon completion of the course, seniors can take a secure, online college placement test through the KY Online Testing (KYOTE) system at no cost to students, schools, or districts. He said seniors who pass the placement tests are guaranteed placement in appropriate college level courses at participating Kentucky colleges and universities.

Mr. Poe said the model used at the Conner High School was replicated in ten other schools in the region. He said over 500 students took the KYOTE test that did not perform well on the ACT. It was noted that 250 of those students passed and enrolled in college at NKU without the need for a remediation course. He said this reduced college costs for parents who were sending their children to school,

and it also proved to students that college was an option for them that they did not have before.

Mr. Poe said one of the major goals for the project was to reduce the remediation rate for students. He noted that Boone County had a 30 percent remediation rate for seniors entering NKU. After the program was implemented, the remediation rate was reduced to 15 percent. In addition, Conner High School had an increase in college readiness on the ACT of two percent, and a six percent increase in mathematics.

Mr. Poe said a group of regional superintendents along with NKU is working on the alignment of the assessment program as mandated in Senate Bill 1 passed in the 2009 Regular Session. He said this goal is also in cooperation with Vision 2015's regional collaboration goal. He said this will provide a common high quality assessment for all students in the region. It increases teachers' ability to differentiate instruction, and builds a model that is part of accountability and affordable. It also provides common community indicators and measures of student learning in the region. A computerized, adaptive diagnostic assessment has been selected. He said because NKU is partnering in this effort, it secures a regional price for the assessment. Piloting of the test has begun in some districts. All NKU teacher-prep students will be trained in the use of the assessment.

Dr. Hughes said the overall mission of Gateway Community and Technical College (GCTC) is to increase access to residents of NK to a comprehensive community and technical college focused on workforce preparation and transfer education. He said this is the newest campus regionally accredited by the Southern Association of Colleges and Schools (SACS).

Dr. Hughes said Gateway has two main focuses. He wants Gateway's role in the region to be an institution that provides opportunities for transfer and transitional education. He said the reality is that Kentucky has many adults who are not prepared for college and the workforce. Transitional education helps to bring individuals up in basic skills to the point that they will be able to succeed in an advanced education and/or in the 21st century workforce. This is critical issue to the entire Commonwealth.

Dr. Hughes said it is critical for students to know that they can easily transfer to any senior institution after beginning their education at Gateway. Gateway primarily focuses on getting students ready to work at some very high level industries that have been identified through Vi-

sion 2015. He said these industries tend to be in the areas of advanced manufacturing or mechatronics, healthcare, business informatics, information technology, and energy industries.

Dr. Hughes discussed the Gateway Urban Campus Project. He said the overall goal is to increase access to urban residents of NK to a comprehensive community and technical college. He said this project is very unique and will create a new urban campus as an anchor for urban development in Covington. He said it will expand postsecondary opportunities for students in the urban school districts with dual credit programs. It will utilize community assets to create the campus to help defray costs and to partner with other groups that are focusing their efforts on the urban core. It provides a unique opportunity to create a new residential development overlooking Covington that produces new tax revenues to support education.

Dr. Hughes discussed the anticipated outcomes of the Gateway Urban Campus Project. They are: 1) Enroll 2,500 new urban students per year by 2012; 2) Increase percentage of 9th graders graduating from urban high school to above national averages; 3) Model program to increase college going rate at Holmes High School via the Gateway College Access Center; and 4) Provide a new source of educated talent for the business community.

Dr. Hughes discussed the proposed current Covington/Parks Hill site for the urban campus. He said the college and Kenton County Library have agreed in principle to develop a joint project that will allow the college to build its new \$25.5 million (85,000 square foot) facility adjacent to the library. The target date of completion is 2014.

Dr. Hughes said the college and Covington Independent Public Schools have agreed in principle for the college's use of Two Rivers Middle School as part of the urban campus complex. The college will acquire the facility and renovate it using its own funds. This target date is the fall of 2010. The project is high on the NK Consensus Committee list of 2010.

Dr. Hughes said the Kenton County Library is planning a major \$11 million renovation. The college and library have identified approximately 18,000 square feet of space that can be developed together in the GCTC facility; therefore, saving an estimated \$4.5 million by not building duplicative spaces separately. The joint areas include public meeting spaces, computer labs, program spaces, entry and gathering spaces, bathrooms, and the library for GCTC. The library is a critical issue for

GCTC's regional accreditation.

Dr. Hughes said Gateway's student enrollment is up 60 percent, and they are expecting an additional 24 percent of attendees this fall. He noted that 53 percent of the brand new students come from families making incomes less than \$25,000 a year. Of that group, 47 percent come from families whose family income is less than \$10,000 a year. He said this makes bus transportation very important to this site and any student attending the college can ride the bus for free.

Dr. Hughes said GCTC is working with the City of Covington to secure funding opportunities from the Commonwealth, federal government, and private organizations to support the project, including additional parking that will be needed in the future. The Foundation has secured a purchase option for two properties in the area for additional building and parking sites. He also said the campaign for GCTC will raise up to \$5 million for the Urban Campus Project.

Dr. Hughes said the project provides a unique return on investment. He said the new residential development overlooking Covington on the Amsterdam Road campus valued at \$62.5 million will yield over \$12 million in new property tax revenues in the first decade. This project has economic and community value and pays for itself over time. He also said this projection does not include the estimated \$5 million of sales and payroll tax generated during the construction phase.

Dr. Votruba said NKU continues to be first in the Commonwealth among Kentucky universities in the percentage of growth and degrees awarded. This is a 50 percent increase over the past 10 years. He said there 2,599 degrees conferred in the past year. Among the four public colleges in Kentucky, NKU has the highest three year graduation for KCTCS transfers at 71.4 percent. The next closest is 64 percent.

Dr. Votruba said nearly half of all NKU produced degrees are awarded in these target areas: Business, 560 degrees; Informatics, 223 degrees, Nursing and Health Professions, 267 degrees. Additionally, NKU has the third largest e-Health informatics degree program in the country. He also discussed college affordability and high quality, high demand statistics. The detailed information is located in the meeting folder in the Legislative Research Commission (LRC) library.

Dr. Votruba said a lack of resources is causing NKU's growth to slow. He said 400 freshmen were turned away this year. He said there was a 100 percent increase in Nursing and Allied Health students over the last seven years. NKU is turning

away 200 undergraduate students and as many graduate students every year due to space limitations.

Senator Westwood commended the panel for their collaborative efforts. He is excited about the urban campus at GCTC. However, he is concerned about NKU turning away 400 new freshmen and 200 Nursing and Allied Health students. He asked if NKU was looking at offering more courses on-line.

Dr. Votruba said the master's program in nursing is offered on-line. However, there has to be enough faculty and lab space to produce the type of nurses that the healthcare systems need. He said the nursing program has experienced 100 percent growth and the quality of the program will be at risk if more students are accepted.

Senator Westwood asked if NKU has plans to expand distance learning outside of the nursing program to other areas. Dr. Votruba said there are a couple of opportunities to increase distance learning. One, NKU is in the process of expanding the number of college credit courses that are offered in high school to help shorten the length of time it takes to get a degree. He said NKU shortened the credit hours required to graduate from 128 to 120 in the past year. He also supports offering web-based courses, but believes in high quality programs with access.

Dr. Votruba commented on the handout that shows the educational pipeline from early childhood through work. This graph is a student's roadmap to success and identifies critical benchmarks and transition years. He said resources should be targeted in the areas that have the most impact and this continuum highlights those points of impact.

Representative Stone commented on the dropout rate being lower in the NK region of the state as compared with the rest of the state. He asked what the dropout rate was for the region and how many 18 year olds move on from public and private schools into higher education. Mr. Poe said transitional programs need to be available for students. He said most school districts in NK have transitional teams in place to target at-risk children between 5th and 6th grade. He said these are very expensive programs and the flexible focus funds are decreasing, which is decreasing the success rate of the program. He said 6th grade has been identified as the year when students start considering dropping out of school. He feels it is very important to fully fund extended school services programs to help curb dropout rates.

Representative Stone said tuitions are increasing and he feels

the cost is playing a role in keeping qualified students out of college. Dr. Hughes said that while tuition prices are increasing, Pell Grants and financial assistance have increased accordingly. He also said the prices of community colleges have been held down significantly.

Representative Glenn asked how many of the 400 freshmen students turned away at NKU were accepted into Gateway. Dr. Votruba did not know the answer to that question, but his hope is that most of those students ended up at GCTC.

Representative Glenn said NKU is a comprehensive university which means they offer a master's degree. He said Wisconsin is starting to offer Ph.D programs in nursing and asked if NKU would consider that to get more medical doctors on the ground level. Dr. Votruba said NKU currently offers the Ed.D program. The program currently has about 3,500 students enrolled and it is a practitioner-based program. He said there are conversations just beginning with CPE and the University of Kentucky and the University of Louisville to offer a practice-based doctoral program.

Senator Blevins asked how many in-state versus out-of-state students are enrolled at NKU. Dr. Votruba said the ratio is about 70 in-state residents to 30 non-state residents. He said 42 percent of NKU's total revenue is generated from the out-of-state agreements. He noted there are reciprocity agreements in place with Ohio and Indiana that allow Kentuckians to attend school at in-state cost if they offer a program that is not offered at NKU.

Senator Blevins asked how many of the 400 freshmen students that were turned away were in-state students. Dr. Votruba said some were Kentuckians and many were non-resident students. He did not know the exact figures, but most had deficiencies to overcome. He said NKU depends on the revenue generated through the out-of-state tuition fees.

Senator Blevins asked the difference in tuition costs for out-of-state students. Dr. Votruba said it increases from \$125 per credit hour to \$200 per credit hour for out-of-state students, unless they are from a contiguous county. He noted it is a 1.85 multiplier for in-state.

Representative Moberly discussed NKU's healthcare programs. He asked Dr. Votruba how NKU plans to reallocate resources internally to fund programs without receiving any new money from the state. Dr. Votruba said NKU received a 10 percent cut in general fund appropriations over the last two years. He said NKU has reallocated twice that much money. NKU doubled the

cuts and asked for plans from each of the vice presidents. He also noted \$7-8 million has been reinvested in the last couple of years.

Representative Moberly asked Dr. Votruba his opinion on the standardization of textbooks to save families money. Dr. Votruba responded that he did not have a good answer for that. He said Dr. Robert King, President, CPE is looking at the issue.

Representative Moberly asked if NK would remain a Delta hub with Delta decreasing flights. Mr. Steve Stephens, President, Northern Kentucky Chamber of Commerce, responded that the NK Delta hub has already lost some international flights. The NK Delta hub regular flights have decreased from 630 flights to 234 and more cuts could be in the future. NK is at risk to lose the Delta hub after the contract expires in 2010. Dr. Votruba said this is very scary because the Delta hub helps to recruit and retain companies and faculty and staff. Representative Moberly said that Delta has played a huge role in economic development in the region and Dr. Votruba agreed.

Representative Rollins introduced Mr. Kevin Brown, General Counsel, KDE, and Mr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE, to explain administrative regulation 703 KAR 5:080 and E and the technical amendment. Mr. Brown said the administrative regulation establishes an Administration Code for Kentucky's Educational Assessment Program, dated May 2009, to replace the previous copy dated February 2009. The revisions to the document enhance language prohibiting inappropriate test preparation and clarify the connection of the Education Professional Standards Board (EPSB) process for possible educator sanctions during the KDE's testing allegations procedure. Revisions align the document with new statewide testing requirements and update and remove statements and terminology that are no longer applicable. Representative Stone made the motion to approve the technical amendment to administrative regulation 703 KAR 5:080, and Representative Collins seconded the motion. The motion was approved by voice vote.

Representative Rollins introduced Mr. Robert Brown, Division Director, Teresa Moore, Branch Manager, Division of Professional Learning and Assessment, and Mr. Gary Stephens, Staff Attorney, Division of Legal Services, EPSB, to explain administrative regulation 16 KAR 8:030. Mr. Brown said the administrative regulation established the requirements and assessment procedures for a program for teachers seeking rank change or certificate renewal as an alternative to earning a Master's Degree or

completing an approved fifth year program at a university. The program will be funded by participant fees established in this amendment. The amendment incorporates by reference scoring rubrics and performance indicators to be used to evaluate program participants. No formal action by the committee was taken on 16 KAR 8:030.

Representative Rollins introduced Representative Adam Koenig and Dr. Anna Marie Tracy, Supervisor for No Child Left Behind, Boone County Schools, to discuss parental involvement initiatives in Boone County Schools. Representative Koenig said the legislation he sponsored in the 2009 Regular Session requiring a parent to attend at least one parent teacher conference for their child during the school year was to generate conversation about what a parent's role should be in their child's education. He said teachers have communicated that students perform better academically when a parent is actively involved in their learning. He said parental involvement is a wonderful way to help students in these tight budgetary times because it is basically free. Parents do not require salaries, office space, or retirement benefits, but can be a teacher's best aide.

Dr. Tracy said that family participation is twice as predictive of students' academic success as family socioeconomic status. She noted some of the more intensive programs had effects that were 10 times greater than other factors.

Dr. Tracy said the research shows us that when parents are involved in their child's education students have: higher grades, test scores and graduation rates; better attendance; participate in higher level courses; and have a decreased use of drugs and or alcohol, and decreased episodes of violence. Research shows the schools benefit by: improving teacher morale; teachers receive higher ratings by parents; more support from families; higher student achievement; and better reputations in the community.

Dr. Tracy said parents express a genuine and deep-seated desire to help their children succeed academically, regardless of differences in socioeconomic status, race, ethnicity, and cultural background. She said parent involvement leads to feelings of ownership, resulting in increased support of schools. Parents also involved in school and community organization empower families to have a voice in the decision making process and demand accountability for their children's schools.

Dr. Tracy explained some specifics in the Boone County parental involvement initiative. School district

programs include: Making the Most out of High School; Summer Bridge Program; Parent Leadership Institute; Parents Assuring Student Success (PASS); Readiness Videos; Parents Ready for School; Common Sense Parenting for Preschool; Starting Strong; Ready Fest; Early English for Parents and Students; and Hispanic Parent Community Meetings. There are also a variety of teacher and parent workshops offered in the district to help teachers communicate with parents and address potential barriers to parental involvement. She said many of the parent workshops target strengthening families by promoting strong fathers and coordinating a parent and child night out. Specific details about each individual program can be found in the meeting folder located in the LRC library.

Dr. Tracy discussed the next steps for schools engaging parental involvement. She said school districts should develop the capacity of school staff to work with families. School districts should continue to encourage and support building families' social and political connections. Finally, there needs to be stronger connections built between schools and community organizations.

Representative Graham asked if Boone County has a program for schools to visit the parents if parents will not visit the school. Dr. Tracy said Boone County has multiple ways to reach the parents. She said the family youth service centers reach out and visit the parents, preschool staff make visits to students' homes, and guidance counselors make in-home visits. She said the public library is also utilized as a place for parents to visit if they do not feel comfortable visiting the school building. Representative Graham asked if teachers visit parents in the student's home or walk the neighborhoods. Dr. Tracy said that is a goal, but it is currently not happening. Representative Graham said the Frankfort Independent School District is implementing this student outreach idea, but he has been reluctant because of security issues. He said the students seemed to respond by seeing the teachers visibly walking in their neighborhoods. He also said what is successful in Boone County may not be successful in Franklin County because each school district is unique and has different needs.

Representative Koenig said he was not trying to represent Boone County as the model for parental involvement initiatives. He said the important thing is that discussion is being engaged around parental involvement in school districts. Representative Graham feels it should be a local school district's decision on what activities take place between

parents and teachers. Representative Koenig said he wants to make sure there is some form of communication between parents and teachers throughout all school districts in the Commonwealth. Representative Rollins said there needs to be a forum for school districts to share ideas.

Representative Stone said so many school children only have one parent. Some children are defined as homeless and have no parents, and bounce from place to place. He said these children suffer the most from not having any parental involvement or very limited parental involvement. He asked what Boone County would do to help the most disadvantaged students from the standpoint of parental involvement. Dr. Tracy said Title I receives funding at the Title I schools to address those types of students in a variety of capacities. She said schools should create a cultivation of expectations of expecting parents to be involved and parents expecting schools to reach out to them. She said the same programs cannot be used to reach all students. Programs should be adaptable to community and unique student situations. Representative Stone said there should be interventions to help students feel special if they do not have parents actively involved in their education and lives.

Senator Givens commended Representative Koenig on initiating the conversation around parental involvement. He commented on Grandparents Day in his school district and what a great opportunity that is to involve more family in a child's education. He asked Dr. Tracy if there are two or three quantifiable performance measures used in Boone County to show that efforts are either successful or unsuccessful. Dr. Tracy said she surveys parents after completion of each program and this has created a database of parents. She then refers to these parents for further participation on an individual basis or to join in a leadership program. She is not able to relate this to student success at this time. Dr. Tracy said students with special needs should not be overlooked either. She would love to see more programs implemented that help parents help their special needs child to perform better in school.

Representative Wuchner said home visitation is the most successful model across the country for nurses sharing healthcare information with families. She said a culture should be grown in the state that values health wellness and education. She can see value in teachers building relationships with parents in the student's home environment.

Representative Carney says there is no silver bullet answer to this issue.

He said there is definitely a socioeconomic relationship with students being successful and parental involvement. He believes staff should take bus tours of the communities where their students reside; however, he believes making door to door visits pose a variety of security issues. He is hopeful that the dialogue continues because it is important to get the parents of the neediest children involved. He said society has created a culture that generationally spins the wheel and garners the same results.

Representative Rollins announced that the next Interim Joint Committee on Education meeting will be in Frankfort on October 12, 2009. He thanked Dr. Votruba and NKU's staff for hosting an excellent meeting.

With no further business before the committee, the meeting adjourned at 3:00 p.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

Minutes of the 3rd Meeting of the 2009 Interim September 14, 2009

The third meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, September 14, 2009, at 10:00 AM, in Room 127, Student Union Building, Northern Kentucky University. Senator Ken Winters, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Johnny Ray Turner and Ken Winters; Representatives Jim DeCesare, C. B. Embry Jr., Jim Glenn, Reginald Meeks, Jody Richards, Charles Siler, and Addia Wuchner.

Guests: Sharon Hunter, Wanda Weidemann, and Pam Petty, Western Kentucky University; Jonathan Lowe, Legislative Research Commission Budget Review Office; Marcie Lowe, Education Professional Standards Board; Randy Poe, Boone County Schools; Ted Hodysan, Zach Wells, Rebekah Parris and Matt David, Northern Kentucky University; Paul Eakin and Carol Eades, University of Kentucky; Ron Carson, Council on Postsecondary Education; and Polly Lusk Page, P-16 Council, Northern Kentucky University.

Legislative Guests: Senator Katie Kratz Stine, Representatives Arnold Simpson and Derrick Graham

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

Senator Winters called the meeting to order and there was no approval of the minutes of the August 10, 2009, meeting due to a lack

of a quorum. He introduced Senator Katie Stine who was visiting the committee as a legislative guest for introductory comments.

Senator Winters introduced Dr. Gail Wells, Vice President for Academic Affairs and Provost, Northern Kentucky University (NKU), to discuss P-16 partnership initiatives to improve college readiness of secondary students in reading and mathematics. Dr. Wells said recent data presented at the Governor's Conference on Postsecondary Education Trusteeship indicated that 45 percent of Kentucky's high school graduates required developmental classes. Kentucky ranks 47th in the percentage of bachelor degree obtainment among those 25 years of age and older.

Dr. Wells said Senate Bill (SB) 1 (2009 regular session) calls on the Council on Postsecondary Education (CPE), the Kentucky Department of Education (KDE), and universities to: align content standards for entry level courses in postsecondary institutions; develop core academic content standards for reading, English and mathematics to ensure vertical alignment between secondary and postsecondary institutions; increase college completion rates of students enrolled in one or more remedial classes by 3 percent annually from 2009 to 2014; and develop a unified strategy to reduce college remediation rates by at least 50 percent by 2014.

Dr. Wells said it will take Kentucky's entire P-20 community and the commitment of leaders in every region of the state to work collaboratively to make the systemic changes required to address SB 1 and Kentucky's need for more college graduates. She explained the pilot programs taking place at NKU in order to meet the criteria in SB 1.

Dr. Wells said college presidents and provosts met with the CPE in March to develop concept papers for stimulus proposals. Seven committees were formed, including the College Readiness Committee co-chaired by Dr. Barbara Burch, Western Kentucky University (WKU) and Dr. Wells. The committee developed seven concept papers, one each from WKU, NKU, Eastern Kentucky University (EKU), Morehead, University of Louisville (U of L), and two joint papers from the University of Kentucky (UK) and the Kentucky Community and Technical College System (KCTCS). She noted a unified paper incorporating the NKU paper and the two joint papers from UK and KCTCS was written. The unified paper describes a comprehensive college readiness plan that could be implemented regionally throughout all areas of the state.

Dr. Wells said the proposal is based on ongoing work with the fol-

lowing institutional partners: NKU; UK; KCTCS; EKU; Kentucky State University (KSU); Lexmark International; 18 NKU area school districts; 17 Elizabethtown area school districts; and up to 22 ECU area school districts.

Dr. Wells said the Northern Kentucky (NK) project conducted last year is the prototype for the statewide college readiness plan. There were ten NK area high schools that participated in the initial NK pilot project last year. The NK project has three major components: 1) Determination of "College Readiness" and Transitional High School Course in Senior Year; 2) College Placement Test; and 3) College Placement.

Dr. Wells said college readiness is determined by the junior year ACT score. She said students whose math ACT is less than 19 are not college ready in math and will be placed in remedial math courses in college unless they take corrective action as seniors. Students whose math ACT is 19, 20, or 21 are not ready for college algebra or algebra based courses, which are required for business, Science, Technology, Engineering, and Mathematics (STEM), and other majors. She noted that high school seniors who are not yet college ready in math take a transitional algebra course at their high school.

Dr. Wells said students take the secure Kentucky Online Testing (KYOTE) college readiness (CR) or college algebra (CA) placement test after they have completed the transitional course. KYOTE tests are offered free of charge to any educational institution in Kentucky through UK's impressive Web Homework System (WHS) at www.mathclass.org. Dr. Wells noted that different regions might choose to have the students retake the ACT test or take alternative placement exams.

Dr. Wells said students who pass the CR placement test are guaranteed placement into a credit bearing math class at NKU provided they are admitted to NKU and enter within a year of completing the test. She said students who pass the college algebra test (CA) are guaranteed placement into a credit-bearing college algebra class, but a statewide plan would guarantee placement into a credit bearing math class at any public institution. She also said students who do not succeed can take remedial steps in the summer before their freshman year in college.

Dr. Wells discussed the NK project results for the 10 pilot schools. She said of the 505 students that participated, 258 passed the transitional exam, for a 51 percent pass rate. She introduced Mr. Randy Poe, Superintendent, Boone County Schools, to discuss the project re-

sults for Conner High School. Mr. Poe said 108 students completed the exam, 67 passed the exam, for a 62 percent pass rate. He said the remediation rates for students needing remedial courses after the implementation of this program was reduced by 62 percent.

Dr. Wells said the comprehensive plan calls for the statewide extension of the NK model in reading and writing as well as mathematics. The NK project results provide promising evidence that the 50 percent reduction in remediation called for in Senate Bill 1 can be achieved by implementing the plan.

Dr. Wells said the success of the NK project is the direct result of effective ongoing collaboration between NKU and the school districts in the NKU area, especially that of NKU math faculty and area high school math teachers. She said the comprehensive plan calls for similar regional P-12 postsecondary collaborations statewide. She noted the involvement of KCTCS in the plan is critical if regional collaborations are to be established throughout Kentucky.

Dr. Wells introduced Dr. Janna Vice, Interim Provost, ECU Program, to discuss ECU's committed partnership in the comprehensive plan. Dr. Vice said ECU has built upon the following: NKU's research model for developing high school transition courses; Kentucky's math educators' work to develop the KYOTE system; the commitment and collaboration of Kentucky's chief academic officers to develop a system whereby high school students who demonstrate college readiness will be guaranteed placement into an appropriate college-level course at Kentucky institutions to which they are admitted; and the synergy among ECU's local school districts, ECU's faculty in the Colleges of Education and Arts and Sciences, and ECU's president and administration.

Dr. Vice discussed the process of developing a transition program for high school students in its service region. ECU has entered into a collaborative agreement with two school districts (Madison County and Berea Independent) to offer transitional algebra courses in the fall of 2009. She said ECU is currently in the planning stages with the following school districts: Clay County, Corbin Independent, Estill County, Garrard County, McCreary County, and Pulaski County. She also said there is a scheduled meeting with all school districts in ECU's service region on November 3, 2009, for President Whitlock and Provost Vice to discuss the transition program.

Dr. Wells introduced Dr. Keith Stephens, KCTCS, who said KCTCS

supports the comprehensive plan as a means of reducing remediation rates. He noted that Elizabethtown Community College is currently engaged in a college readiness program this year building on the work of this initiative. He said the role of KCTCS is critically important as postsecondary collaboration moves forward for almost every high school. He also said KCTCS has played an important role in the ongoing state collaborative involved in developing the program.

Dr. Wells said the project has garnered national attention. The New England Board of Higher Education selected the NK project as one of six model college readiness programs in the nation to include in their report "Aligned in Design." She said an examination of the model programs shows that Kentucky is in many ways far ahead of other states in terms of college readiness initiatives.

Dr. Wells said the comprehensive plan calls for a Kentucky Academic Support and Assessment Portal (KASAP) based on technology developed at UK and Lexmark. Web-enhanced courses, including transitional courses, can be offered through KASAP. She said UK's college algebra course is a web-enhanced course offered to UK students and high school students at their high school (with college credit) through UK's WHS that will be the foundation for KASAP.

Dr. Wells said the UK's WHS at www.mathclass.org is used by about 5,000 UK math and Spanish students per semester. WHS has been developed over many years with tens of millions of dollars in grants. She said WHS supports the KYOTE secure online math placement tests currently being used by NKU, ECU, WKU, KSU, Morehead, Thomas More College, Elizabethtown CTC, Ashland CTC, and KYAE (adult education).

Dr. Wells said a K-place web portal will be designed to provide information to educators and the public about college readiness students, testing and placement policies. She said students will be provided a secure placement page and can, at their option, make their placement test scores accessible to colleges and employers of their choice.

Dr. Wells introduced Mr. Tim Hanner, Superintendent, Kenton County Schools, to share some comments about the NK project. He commended Dr. Jim Votruba, President, NKU, on his leadership and vision. He supports the NK project and its statewide extension to reading and writing as well as mathematics. He extended appreciation to NKU for collaborative efforts to improve the college readiness of all students. Mr. Tanner believes the extension of

the project will significantly improve college readiness in Kentucky and should be used by KDE and CPE as Kentucky's college readiness strategy, a strategy mandated by Senate Bill 1. He also said this project nicely complements the Race to the Top proposal that Mr. Terry Holliday, Commissioner, KDE, is supporting in KDE.

Senator Winters asked the differences between the KYOTE test and the college algebra test. Dr. Wells said the KYOTE system utilizes both the transitional exam and the college exam. There is no difference in the KYOTE test.

Senator Winters asked if this test could have identified students who were not ready to move on to the next grade level and did not have the mathematical skills mastered. Dr. Wells said the Kentucky Center for Mathematics is interested in identifying and providing assistance to students who need it in elementary school. She also said interventions could be set up at the preschool level.

Representative Glenn asked why NKU dropped the number of credits required to graduate from 128 to 120. Dr. Wells said 120 credit hours is consistent with the Southern Association of Colleges and Schools (SACS) accreditation requirements. She also said it is consistent with students earning 15 hours a semester for eight semesters. She said ECU, UK, WKU, and U of L all require 120 credit hours to graduate.

Senator Winters asked if some programs are exempt from the credit course reduction because of accreditation requirements. Dr. Wells said 120 credit hours is the minimum number required for graduation. There could be some programs, such as nursing, that require 123 – 126 credit hours for graduation. She said every precaution is being taken to ensure that the reduction does not reduce rigor or standards.

Representative Wuchner is proud of the work being done on remediation in the NK area. She asked if these new remediation processes will affect teacher preparation in the future. She also asked how many students elected to take the summer remedial courses. Dr. Wells did not know how many students took on-line or summer courses. She did say 66 students elected to take the Academy to remediate deficiencies and 56 of those students passed.

Representative Wuchner asked how the formation of teachers in the future will be affected by these programs. Dr. Wells said NKU is looking at teacher preparation for new teachers. Universities are also focusing on professional development opportunities to get teachers oriented with the

new standards being implemented.

Representative DeCesare asked if the other comprehensive universities are on board with the program. Dr. Wells said the other comprehensive universities are interested in a similar program, which will be regional in concept.

Representative DeCesare asked if the \$7 million cost is a start-up cost or an annual figure to operate the program. Dr. Wells referred the question to a NKU representative who said that most of the \$7 million is a start-up cost, with \$2 million being designated to professional development. Dr. Wells said the \$7 million would implement the program statewide.

Representative DeCesare thinks this plan is a common sense plan. He said this is a small investment to make compared to the \$25 million a year that is being spent on remediation. He urged the General Assembly, KDE, CPE, and other interested agencies to give this idea a chance to work before trying to start new projects.

Senator Winters asked if the budget estimate included the parts of the state that are not currently participating. Dr. Wells said it is a statewide, comprehensive, strategic, budget estimate. She said KYOTE was established in coordination with other grants so it did not actually cost as much as the proposed budget.

Senator Stine commended Senator Winters as the primary sponsor of Senate Bill 1 for his innovative thinking. She said Senate Bill 1 saves families money by reducing the number of classes they have to pay for in college. It also reduces frustration by students and keeps them focused and enrolled in school because they can see the end of their educational experience. She said the evidence is clear that this is working because high schools are reporting remediation rates have dropped to 15 percent from 30 percent since the program's implementation.

Representative Meeks thanked Senator Winters for his vision with Senate Bill 1. He asked the superintendents about the number of schools and principals that participated in the KYOTE project in their districts. Mr. Poe said that Boone County initially started with Conner High School and the program expanded to all four high schools in the county. Mr. Hanner said all four high schools were involved in Kenton County as well, including The Success Academy Alternative School. He said there will be three times as many students participating this year and the principals are completely behind it.

Representative Meeks asked the superintendents about teachers teaching to the ACT test. He also wanted to know their feelings on re-

quiring students to stay in school until 18 years of age in an effort to curb the dropout rate. Mr. Hanner said he believes that Kentucky can mandate students to stay in the classroom until they are 18 if the high schools are willing to operate differently than in the past. He said Kenton County has implemented schools of study where students choose areas of interest entering into their sophomore year. He said the primary reason for this is to make the learning more relevant to the students and keep their interest so that they will want to be in school. He also believes more mental health services should be offered to students. Mr. Poe said age is not the true issue. He feels more funds are needed for transitional programs and not just how many seats are being taken in the classroom. He said Boone County has a program in place that identifies students in 6th grade who are at-risk to drop out of school and an intervention is planned for those individuals. He said students need alternative routes in high school as one size does not fit all. Students need to be engaged and involved in school beyond the classroom. Mr. Poe added if teachers are teaching skills then they are not teaching to the test.

Senator Stine commented that Bellevue Independent has led the way in Northern Kentucky in dealing with the dropout issue. She said staff conducted in-home visits and talked with the students and parents. Staff also provided after hour tutoring and it has paid off.

Senator Winters introduced Dr. Barbara Burch, WKU, to discuss the program Assistance, Strategies, Know-How (ASK) program. She said the ASK establishes a framework for comprehensive, seamless, strategy-based reading comprehension and learning/study skills assistance for all WKU students. ASK respects each learner's unique talents and features multiple paths, differentiated tracks, choices, and outreach to other learning institutions that feed into WKU.

Dr. Burch explained the mathematics program at WKU compliments the program at NKU. She said all universities should be focused on finding out where students are and making appropriate interventions. WKU is getting early information on students, documenting what works and what does not work with students, and tracking students from high school into college. She said the presentation today will focus mainly on the literacy piece.

Dr. Burch introduced Dr. Pam Petty, Literacy Initiative Director, WKU Center for Literacy, to give the specifics of the program. She also introduced former Superintendent Dale Brown, who accompanied the

group as an interested citizen. Dr. Petty commended Senator Winters for Senate Bill 1 and believes the legislation hit the target for college and workplace readiness. She explained the different programs being offered at WKU for current students. These include: the LTCY 199 Reading Power; College Reading Success; Nelson Denny Adult Reading Test; Follow the Reader; and Honor Students are Reading Peers.

Dr. Petty said the "Preparing 4 the final 4" project included paired dual credit classes for 24 high school students this past summer. She said they were given psychology, western civilization, political science, and sociology classes 4 mornings a week for 2 hours. She said digital digests were implemented for students to be able to get information via their iPods, cell phones, or computers.

Dr. Petty said any student that scores an 18 or 19 on the ACT is required to take enroll in a LTCY 199 course. These students are also required interact with their professors on a regular basis. She said they tested 948 juniors with the Nelson Denny Adult Literacy Test to see where students were. She said 53 percent of those students tested scored above or at grade level on comprehension rates. 47 percent of the students scored below grade level, and 53 percent of those students were at the elementary or middle school comprehension levels. In vocabulary, 47 percent of the students tested at or above grade level. 53 percent of the students scored below grade level, and 44 percent were at the elementary or middle school vocabulary levels. In 4 weeks, WKU had a 17.4 percent gain in grade levels for those students in comprehension and a 10.7 percent gain in vocabulary. Students provided feedback on the program through focus groups.

Dr. Burch summarized by stating all universities want their students to be successful learners. She said her colleagues in the WKU area have noted the models work at all levels, but professional development needs to occur with the P-16 and the university faculty at the on-set of the project. She said WKU hopes to benefit from NKU's KYOTE model, but urged the importance of having options and alternatives to recognize differences that may apply in different areas of the state. She said programs should be given the maximum opportunity to design the kinds of early information, interventions, and collaborative efforts to enable universities to use whatever resources they have available.

Mr. Brown said universities need to change their college preparation program for mathematics teachers. He said partnerships need to be

formed with parents and business and industry in helping to merge the relationship between P-16 and post-secondary education. He thanked Senator Winters for sponsoring Senate Bill 1 and credited the legislation for the new discussion between the two groups. Senator Winters thanked the 138 members of the General Assembly that unanimously passed Senate Bill 1.

Representative Glenn asked what the score of 20 on the ACT tells us about a student's reading comprehension level. Dr. Petty says a score of 20 on the ACT tells very little about a student's reading comprehension. It does not identify a specific reading level, but provides a cut-off point. She said the ACT provides a trend over large numbers and does not define a set of skills that a student has mastered at each score. Dr. Burch said the ACT is a composite score, but is an indicator to show subject areas that a student needs additional assistance in.

Representative Richards commended Senate Bill 1 and the staff at WKU for their passion and professionalism. He asked if the students reading comprehension rates continue to increase or regress after leaving the program. Dr. Petty said it's about students making a connection between reading and comprehending the print. She said the students will be tracked to see their progress after completing the program. The program helps students to begin to read more and incorporate reading into their everyday life.

Representative Richards asked if there will be a writing component added to compliment the reading model. Dr. Petty said she is working very hard to add a writing component. She said writing is essential for students to learn and she is working with the English Department at WKU very closely. Dr. Burch said there is a writing component and a system in place to address writing. She said professional development growth is as important for university faculty as well as P-16 staff. She said there is training for staff that is equally intentional for reading and writing to help improve the critical thinking skills of students in the future.

Representative DeCesare said the writing portion is exciting and he feels students need to get back to learning the basics of grammar. He also commended former Superintendent Brown on requiring his employees to read one book a month.

Senator Winters said the next meeting of the committee would be held on Monday, October 12, 2009, back in Frankfort.

With no further business before the committee, the meeting adjourned at 12:10 p.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

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

The fourth meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, October 12, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Leslie Combs, Co-Chair; Senators R.J. Palmer II, Elizabeth Tori, Johnny Ray Turner, and Ken Winters; Representatives Jim DeCesare,

C. B. Embry Jr., Bill Farmer, Tim Firkins, Kelly Flood, Reginald Meeks, Jody Richards, Tom Riner, Carl Rollins II, and Charles Siler.

Guests: Ms. Deborah Anderson, Kentucky Department of Education; Ms. Kathleen Mandlehr, University of Louisville; Ms. Jill McBride, Mr. Dan Connell, and Ms. Beth Patrick, Morehead State University; Dr. Jay Box, Kentucky Community and Technical College System; Mr. Richard Greissman, University of Kentucky; Ms. Labrisha Williams, Western Kentucky University; and Mr. Wayne Young, Kentucky Association of School Administrators.

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

Chair Combs asked for a motion to approve the minutes from the August 10 and September 14, 2009, meetings. Representative Richards made the motion to approve the minutes and Representative Meeks seconded the motion. The motion was approved by voice vote.

Chair Combs introduced Dr. Robert King, President, Council on Postsecondary Education (CPE); Mr. Richard Greissman, Assistant Provost for Program Support, University of Kentucky (UK); and Dr. Jay Box, Chancellor, Kentucky Community and Technical College (KCTCS), to give the committee an update on student transfer issues in Kentucky. Dr. King said his presentation would focus on barriers to successful transfers, national best practices, current national initiatives, definitions and data, and policy priorities.

Dr. King said 4,985 KCTCS students were surveyed in 2004 to identify potential barriers to a successful transfer. He said 56 percent of all students cited financial difficulties; 38 percent of all students indicated conflicts with times courses were scheduled; 67 percent of students planning to transfer had not received

transfer information from a college advisor; 32 percent of undecided students planned to complete a baccalaureate but did not understand the transfer process; and 31 percent of all students did not plan to transfer.

Dr. King discussed some national best practices. Some examples include: increasing financial aid for full and part-time transfer students; expanding flexible academic programs; increasing opportunities to obtain credit for relevant experiential learning; expanding statewide technology to provide transparent information to students; developing joint admission/enrollment programs; expanding statewide outreach campaigns; and focusing on common learning outcomes across institutions.

Dr. King said current initiatives in Kentucky include restructuring institutional financial aid. He said 520 transfer scholarships were made available in the fall of 2008, including 32 minority transfer scholarships. In addition, four-year campus faculty are increasingly taking advantage of distance learning instruments to enhance opportunities for students to complete degrees. The growth of completer degrees is facilitating transfer, and the availability of satellite campuses. He noted that the expansion of statewide technology is also helping students determine if courses they are taking in the community colleges are aligned effectively with majors at the four-year campuses. There have also been transfer centers established at all 16 KCTCS campuses, and university advisors on all KCTCS campuses. A complete listing and information on the statewide outreach campaign and advising programs is located in the meeting folder in the Legislative Research Commission (LRC) library.

Dr. King discussed statewide policy development that involves the alignment of the general education curriculum, criteria, and outcomes at all the four-year universities, along with the academic resources at KCTCS. He said there is a statewide transfer committee that includes representation from all universities and KCTCS to help guide this policy development. He said there is also a Kentucky Adult Learner Advisory Committee which is developing the criteria that will be used to provide credit to students for prior learning; help with financial aid issues; and guide more flexible program delivery to students.

Dr. King said the CPE had published data describing the number of students who had transferred and transfer rates, and the numbers were disputed by KCTCS. It was determined that KCTCS and CPE were using different criteria to measure the transfers. The CPE and KCTCS have

come to a common agreement and one set of data will be distributed in the future that is accurate and uses common criteria to measure the various elements around transfer.

Dr. King said the definition of a student transfer has been clarified to: paint a more complete picture of student mobility to better inform transfer policies; develop common language and a unified voice around transfer; understand the application of KCTCS credit toward four-year degrees; and compare Kentucky's institutions to each other and other states with transfer rates. Preliminary data will be available in November 2009.

Dr. King said there were approximately 9,276 transfer students from KCTCS to four-year institutions in 2008-2009 based upon the new definition. He said 2,700 of those students transferred out-of-state, 2,300 transferred credits into a four-year university, and 4,200 physically transferred into a traditional in-state university.

Dr. King said there will be follow up to the 2004 student study to continue to assess barriers to successful transfer. He also said a transcript study will assess how much credit is accepted toward major requirements, and why it may not be accepted (changing majors, failing grades, academic policy differences, etc).

Dr. King summarized the CPE's larger policy priorities. They are: 1) create a more seamless and rigorous system that facilitates transfer and the alignment of general education learning outcomes and increase students in associate degree programs; 2) expand financial aid opportunities for transfer and part-time students; 3) continue improvements in advising, and programs to meet the needs of adults and part-time learners; 4) improve transparency of information through the technology system and better advising in high school about transfer opportunities; and 5) create a clear transfer dispute resolution process.

Mr. Greissman said UK's retention and graduation rates needed to be improved. He also said UK would not meet its 2020 goal of increasing the number of students graduating with baccalaureate degrees if it did not increase the transfer rate. He said transfer students help to meet the goal of proper amounts of baccalaureate degrees awarded.

Mr. Greissman said data shows the most successful transfer students from KCTCS to UK are the ones who first earn their associate degree. He said there must be multiple pathways for students to transfer to UK. However, the message needs to be sent to students that the most successful UK graduates are the ones

that first obtain an associate degree. He said they created the Bluegrass Community Technical College (BCTC) Blue Plus program to try to identify and speak to the concerns that community college students had about transferring to UK.

Mr. Greissman said BCTC Blue Plus would not have worked without extraordinary cooperation within UK and across universities, along with Dr. Box from KCTCS. He said students can see transparently on the Web what courses they will need to take at BCTC that will transfer for the major they are interested in at UK.

Mr. Greissman said a Memorandum of Understanding (MOA) was created between UK and KCTCS that said any BCTC student who enrolls at BCTC and UK jointly, will have to pay no more than the flat full-time rate as long as they are taking at least 12 credit hours. They will be considered a full-time student, which is critical for financial aid. After 30 credit hours, students can take two UK courses at the BCTC rate. A student, in the course of his or her four semesters at BCTC, can do 12 hours of UK coursework at the community college rate. He said a student can graduate from a community college with an associate degree, transfer to UK, and have already completed some upper division courses that will apply to a four-year degree.

Mr. Greissman said transfer scholarships, known as trustee scholarships, should be made available to students who complete the BCTC Blue Plus program. In the best of all worlds, a BCTC student finishes his or her degree in two years and finishes a UK degree in no more than two to three more years. During this whole time, the student is paying the BCTC rate and not UK tuition.

Mr. Greissman said the BCTC Blue Plus program can be replicated throughout the Commonwealth. He said distance learning will have to be implemented so all community college students can take the courses at UK and have the same opportunities as BCTC students.

Dr. Box acknowledged the work that Mr. Greissman and UK have put into the program. He said their forward thinking and collaborative efforts with KCTCS has made the program successful. He noted the issues facing KCTCS are much greater than just aligning with UK. He said KCTCS must find a way to align with all eight public universities as well as private campuses. He noted Dr. McCall met individually with the eight university presidents earlier this year to discuss issues and challenges in increasing transfer rates. University presidents communicated that KCTCS needed to do a better job of communicating to students the transfer practices

and policies to get them enrolled into a university with the least amount of conflict. He noted transfer centers were implemented in all 16 community colleges last year in order to assist students with the transfer process.

Dr. Box said CPE and KCTCS resolved their differences and agreed upon a new transfer definition. He explained that KCTCS had no way of collecting data that would actually identify where the problem was in transfer. The new definition gives KCTCS the opportunity to look at specialized problems with transfer and identifies areas of focus. He said the new definition includes the measurement of nine metrics. He said the main change in the definition that was beneficial to KCTCS was the efficiency of the transfer of credits. He said this identifies the overall number of credits accepted by the four-year university and the number of credits accepted and applied toward the program requirements for graduation.

Dr. Box said the last area of the transfer definition that was revised was the transfer rate. He said KCTCS is now measuring how well it is doing to encourage students to transfer. This revision allows KCTCS to be able to compare how it is doing nationally and how its students are doing compared to the native students at the universities.

Dr. Box said KCTCS is supportive of a statewide approach to automate, store, and display institutional course equivalencies so that students have the opportunity to know what courses are there and how they align. He said KCTCS has begun targeted statewide approaches to the development of baccalaureate frameworks, or career pathways, in areas of high student demand, as well as high need field areas for Kentucky.

Dr. Box said KCTCS is awaiting the new transfer definition baseline data that will be released soon. He said this data will give KCTCS the opportunity to correct issues internally and to work collaboratively with the universities in establishing a common vision for enhancing transfer in the Commonwealth.

Dr. Box summarized by discussing the challenges still facing KCTCS. He said KCTCS is in the process of eliminating duplicative courses. KCTCS is cognizant of the fact that many universities are revising their general education core and understands this is a tremendous task. KCTCS will work with the universities during this process to ensure no new barriers come up to hinder transfer. He said it would be nearly impossible for KCTCS to do a complete overhaul of its general education core to match up to a specific university.

Representative Siler asked if CPE is approaching the business community about offering and paying for scholarships for future prospective employees. Dr. King said he expects this recommendation to come out of the Governor's Higher Education workgroup. He said this workgroup was appointed by executive order and is studying transfer and financial aid issues. One recommendation was discussed that encourages employers to create programs that would stimulate their workforces to continue their education as well as to encourage their employees to encourage their own children to consider higher education. Dr. King is hopeful that the recommendation makes it to the final report from the workgroup.

Representative Farmer said over 50 percent of students are concerned about the cost of transfer. He asked the average number of credit hours it takes for out-of-state transfers to obtain a baccalaureate degree in Kentucky. He said his son transferred to UK from West Point as a junior and it took him 152 credits to graduate. He said this is a huge cost factor and a deterrent to students transferring because parents cannot afford it. Representative Farmer said he feels that a baccalaureate degree is a four-year degree and students should obtain their degrees in four years, and not six.

Dr. King said he would have to defer to his staff at CPE as to whether they track students who have started at an institution out-of-state and transfer to a Kentucky four-year institution. Lee Nimmons, CPE staff, responded that the CPE does not normally track this data, but will analyze and get the information to the committee.

Dr. King said some Kentucky campuses have started requiring over 120 hours for certain specialized degrees. CPE is asking universities to take a look at the number of credit hours they are requiring for degrees and try to scale it back to 120 when applicable. He noted that typical four-year college students who attend college immediately out of high school are diminishing. The average age of students on campus is increasing and many students attend school part-time, or come back to college after working, or starting a family. He feels students should be able to complete a four-year degree in four years and wants schools to try to scale back degree requirements from 128-135 hours back to 120 credit hours.

Representative Farmer said private schools do a good job of graduating students in four years. He is not sure that public universities have the incentive to graduate students in four years. Public universities can get

state revenue the longer the student is in school and lose money by graduating students. Dr. King does not agree with that idea and said state support for universities is no longer connected to enrollment.

Representative Rollins asked Dr. Box what other universities besides UK are doing to work with KCTCS. Dr. Box said his staff is working with all universities to identify next action steps in regard to transfer issues. Dr. Box said the University of Louisville (UofL) held a workshop during the past summer and KCTCS was heavily involved. Dr. King introduced Mr. Erin Thompson, Eastern Kentucky University (EKU) staff and CPE Interim Vice President for Academic Affairs, to describe EKU's transfer student program. Mr. Thompson said EKU re-allocated money to establish a transfer scholarship. The transfer scholarship is available to students who have at least 24 credit hours when they transfer and maintain a certain grade point average.

Representative Rollins wants faculties at the universities to work together on determining the core of general education and prerequisite courses that students need. He said the articulation agreements are not being updated appropriately.

Chair Combs said the general education core curriculum for the first two years of college needs to be consistent among universities. The upper two year levels are not as crucial because those are specific to individual majors and degrees.

Representative Richards said recent data shows that lottery and cigarette taxes are up. He said it is disturbing that 67 percent of students did not receive transfer information from a college advisor and 32 percent did not understand the transfer process. He said these issues can be fixed and should be. He also commented that he is concerned about the greater number of females attending college than males. He wants the CPE to come up with ideas on how to attract more males into college. He would also like for KCTCS to work with the eight universities and for faculty to meet and align content and general education course numbers.

Dr. King said the survey results were from 2004 and he believes they would be much improved today. KCTCS and the universities have worked in the past five years to resolve transfer issues. He noted every KCTCS campus has a transfer center to facilitate the process.

Dr. King said he is distressed that male enrollments are substantially lower than female enrollments on college campuses. He is particularly concerned with the number of young African American men enroll-

ing in college. The CPE is committed to working on the issue and increasing these statistics for men.

Chair Combs said the private colleges need to be included in the working relationships between KCTCS and the universities. She said the private colleges serve many rural areas and students coming from community colleges. Dr. King commented that Dr. Gary Cox, President, Association of Independent Colleges and Universities, is an active participant at all the university presidents' meetings.

Representative Riner said something is wrong with Kentucky's transfer system when Ivy League schools accept Jefferson Community College courses and the public state universities will not. He does not believe that Kentucky's standards are that much higher, but that the system is flawed.

Senator Shaughnessy said every student in the Commonwealth should have the same opportunity as BCTC students. He said top 20 research schools should be focused on finding ways to cure cancer instead of arguing about what English 101 should look like. He also said that universities need to work together to fix the transfer issue as quickly as possible. If not, the legislature will take action to correct the issues.

Dr. King said he appreciates and understands Senator Shaughnessy's frustration. He said he is new to the job but has communicated to his staff that either CPE can fix the transfer issues or the legislature will fix the problem. He has complete confidence in the campus university presidents and chief academic officers and all are committed to working with the General Assembly to increase transfer rates.

Representative Meeks said students need to know what is expected from them and what the core curriculum is well before enrolling in college. He wants students to have access to information and understand the transfer process. He is disappointed in the best practices list that the CPE identified it is working on. He said many of those ideas have been around for years and are very common. He would like to see innovative programs that have proven successful in other places implemented here in Kentucky. He would like to see CPE to be forward thinking with its ideas. He also asked for more detail about best practices around the country and Kentucky's plans to emulate those ideas.

Dr. King said the BCTC Blue Plus program is an innovative idea that allows community college students to earn credits toward their major at UK and still pay community college tuition rates. He said there are a variety

of programs around the country similar to this that can be emulated here. Representative Meeks said Kentucky has been talking about increasing financial aid for full and part-time students for years. He is ready for some new ideas and innovative national best practices to be implemented in Kentucky.

Senator Winters said four years should be the target graduation goal for students. He said many Kentucky universities are looking to cut graduation credit requirements from 128 to 120. However, some accreditation programs prohibit students from graduating with 120 credits. He also noted that some students change majors multiple times which can contribute to taking more courses and prolong graduation.

Dr. King said it is a federal requirement that a student must take at least 12 credit hours to be a full-time student. He said this is creating a different view of how many credit hours a student is taking each semester. He also noted the importance of having a public system of higher education that is as diverse as possible. He would resist and discourage having a system in place where all eight of Kentucky's baccalaureate campuses offer the same curriculum, courses, degrees, etc. This is not the K-12 system and that would not be good for the state. He said diversification is important in postsecondary education and for students to have a broad array of choices. Chair Combs said she agrees with diversity in the last two years of degree obtainment, but believes the first two years of general education courses should be consistent across all the schools and KCTCS.

Dr. King asked that Ms. Kathleen Mandlehr, Director of the UofL Transfer Program (ULTRA), be recognized to give the committee an update on what UofL is doing to address the transfer issue. Chair Combs asked Ms. Mandlehr for a brief update. Ms. Mandlehr said her job is to encourage KCTCS students to transfer to UofL. She said UofL has instituted transfer scholarships so that any student who earns more than 40 college credit hours at a KCTCS institution, and has a 3.25 grade point average or better, gets an automatic scholarship when they transfer to UofL. She said there are over 100 academic program plans, much like UK, that guarantee their credit courses will count towards the UofL degree while paying the community college rate tuition. She said UofL takes the charge of transfer students very seriously and is on-going in recruiting these students to get a four-year degree.

Chair Combs invited the adult education staff to come back and give the committee an update on

adult education at the November 9, 2009, meeting. Mr. Reecie Stagnolia, Vice President, Kentucky Adult Education, agreed that they would return and do their presentation at the next meeting.

Representative Siler said classroom space is essential to universities reaching their education goals by 2020. He asked if there were any solutions to the classroom space issue. Dr. King said he did not have a concise solution to the problems with classroom sizes and space. It is clear that a number of Kentucky campuses are reaching the physical limits of the number of students that they can accommodate reasonably without placing academic quality in jeopardy. He said more adjunct faculty can be hired as classroom size increases. These staff members can teach, but are not typically contractually required to stay on campus to do advising and other things expected of full-time faculty. He noted that Northern Kentucky University did actually turn away students this past year due to space limitations. He said as Kentucky attracts more students into higher education, it is essential to have the faculty and facilities to accommodate these new students. It is going to take new resources to increase enrollments and meet state goals. He hopes that the General Assembly realizes this when investing state dollars and realizing the economic impact of educating more people to a higher level. Representative Siler agreed and said the issue needs to be addressed quickly so the schools can meet their 2020 educational goals.

With no further business before the committee, the meeting adjourned at 11:55 a.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 4th Meeting of the 2009 Interim September 18, 2009

The 4th meeting of the Special Subcommittee on Energy was held on Friday, September 18, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Keith Hall, Co-Chair; Senators David E. Boswell, Dorsey Ridley, John Schickel, Katie Kratz Stine, and Johnny Ray Turner; Representatives Royce W. Adams, Eddie Ballard, Dwight D. Butler, Leslie Combs, Tim Couch, Will Coursey, Jim Gooch Jr., Thomas Kerr, Martha Jane King, Harry Moberly Jr., Rick G. Nelson, Fred Nesler, Sannie Overly, Tom Riner, Fitz Steele, and

Brent Yonts.

Guests: Scott Sykes, President, Genesis Development; Dr. Bruce Pratt, Eastern Kentucky University, George Campbell, General Atomics, Ed Burtner, Mayor, City of Winchester, and Roger Ford, Senior Partner, CNG Energy LLC.

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

The August 28, 2009 minutes were approved, without objection, by voice vote upon motion made by Rep. Royce Adams and seconded by Rep. Keith Hall.

Chairman Smith introduced Dr. Bruce Pratt, Eastern Kentucky University for the Center for Renewable Alternative Fuel Technology (CRAFT). Mr. Pratt explained that the perfect biofuel would be sustainable, renewable, environmentally sound, reduce greenhouse gases, net energy gain, economically viable, and it would not directly compete with human or livestock feed. He stated that the CRAFT plan has three phases, and it was now in Phase I of Initial Research and Development; Technology Refinement; and Field to Fuel.

Dr. Pratt stated that General Atomics of San Diego, CA, a corporate partner, chose Central Kentucky as a place to establish a local biofuel industry from a comprehensive study that was done by Oak Ridge National Laboratory. That study listed Kentucky as a hotspot for biomass potential. Eastern Kentucky University was chosen because of its geographical position, but overall, EKV has tremendous support from its administration and the General Assembly.

Rep. King asked if there were any statistics on how miscanthus was growing on reclaimed areas, and whether switchgrass or miscanthus grows better in poor soil. Dr. Pratt said Germany is using miscanthus as a source for biofuel. In Eastern Kentucky, miscanthus was planted next to a power plant as part of a biofuel plant. For now, CRAFT is going to concentrate on switchgrass, but miscanthus does have potential. He stated that switch grass will survive in relatively poor soil. He was not familiar with miscanthus.

Sen. Boswell stated that the Center for Applied Energy Research is doing work in miscanthus. They recently planted test plots.

Rep. Hall asked if pasture land was currently being under-utilized. Dr. Pratt stated that some pasture land would be diverted into the biomass program, but it would depend upon the farmer's preference.

Rep. Moberly stated that the model indicating a 50 mile radius area shows that you can produce and use a lot of fuel produced in that area. There are very low transporta-

tion and pipeline costs.

George Campbell, General Atomics from San Diego, California stated that General Atomics had taken great pains in looking how to develop biomass as a new energy enterprise. General Atomics also has interests in Kansas, Mississippi, Texas and Wisconsin. The ability to establish an industry in an area where you can grow the material, harvest, refine it, bring it into the algae, refine the algae into an oil product and consume it all within a 50 to 100 mile radius, is the baseline of the next petroleum revolution.

Ed Burtner, Mayor, City of Winchester, stated that this is an economic development strategy that Clark County has been pursuing in terms of being innovative and looking at ways that the economy can be helped. Winchester and Clark County have been very pro-active in helping their farmers diversify and this project is a prime example of how that can be done.

Rep. Yonts asked how much the fuel product would sell for when it is fully commercialized, and would the price make it competitive on the market. Dr. Pratt stated that it would cost approximately \$4 a gallon. With crude oil at \$74 a barrel, it would not be competitive.

Rep. Yonts asked how much it would cost to build the pilot plant. Dr. Pratt stated that it would cost between \$20 million and \$25 million. A full-scale commercial plant would cost around \$300 million.

Mr. Campbell stated that General Atomics sees the price of oil escalating as the availability of getting the oil out of the ground decreases. It is a resource which is on the down swing, and studies suggesting anywhere from \$1.65 to \$4.00 a gallon. General Atomics believes they can get the cost of biofuel much lower as the volume increases and improved performance of the extraction process is achieved.

Rep. Moberly stated that there are high expectations in using co-products from the process that would help to buy down the costs as well. Rep. Hall introduced Scott Sykes, President, Genesis Development of Kentucky. Mr. Sykes stated that Genesis Development was Kentucky's first green energy company. The company focuses on utility scale wind energy development in Eastern Kentucky and Central Appalachian Mountains. The company specifically targets existing surface mining sites for the development of and implementation of the wind energy facilities. According to the Global Wind Energy Council there are 25,000 megawatts of installed capacity in the United States – that is 25 gigawatts of power. Mr. Sykes stated that wind

power is the fastest growing energy source in the world. The company is complementing the industries already in Eastern Kentucky. They are able to partner with coal companies and property owners that have title to existing surface mines. This creates a new revenue stream for that property and also creates new jobs.

Mr. Sykes stated that the goal of Genesis Development is to have the first operational utility scale wind project in Kentucky. He said that they were able to indentify 135 sites in Eastern Kentucky that are ideally suited for wind energy development because of strong winds along the ridge lines; remote locations ideal for developments; good existing transmission infrastructure and the growing regional load demand.

Mr. Sykes explained that the large wind systems range between 660 kilowatts to 7 MW. Genesis is looking at building 2 to 2.5 MW turbines. The first project will be a 100 MW facility – using turbines which cost around \$3 million apiece. The total project will cost around \$120 million to \$130 million. Since we are a merchant electric generator we are required to pay a filing fee with the state siting and permitting board which amounts to \$1,000 per MW. Once we start generating power, we would enter into a long term power purchase contract with companies such as AEP and EoN.

Rep. Riner asked if Genesis was aware of another company trying to capture wind energy, and if so, do you all work together. Mr. Sykes stated that he was not familiar with another company pursuing wind energy.

Rep. Nesler and Rep. Ballard asked how Mr. Sykes responded to folks who are not sold on wind energy, and what do you say about the turbines killing birds. Mr. Sykes stated that Kentucky has to be able to develop every resource that we can in order to sustain the economy, stabilize energy costs and to be able to move forward. Statistics show that more birds are killed by flying into high-rise buildings than turbines.

Rep. Yonts asked if any of Genesis's projects would have to be subsidized. Mr. Sykes stated that there are some state and federal programs available right now. He said that private companies are making funding available.

Rep. Moberly asked how much a wind turbine costs, what type of licenses and permits were required to build a wind turbine, and whether smaller wind turbines would be available in the future. Mr. Sykes stated that it would cost approximately \$3 million per turbine. He said that they have to go through a federal and state process. For Kentucky, a full NEPA assessment is required. Ad-

ditional permits may be required by local planning and zoning. There are smaller wind turbines for homes.

Rep. Moberly asked if there were tax credits or deductions available for installing home wind turbines, and how much that would cost. Mr. Sykes stated that Kentucky actually has a tax credit for that. He said that it would cost between \$300 and \$7,000 to install residential wind turbines.

Sen. Stine asked if Genesis would be applying for more grants in the future. Mr. Sykes stated that they would. They just applied to the American Recovery and Reinvestment Act for a \$150,000 grant. We pursue any available funding.

Sen. Boswell asked if Genesis would work out lease agreements with landowners or would the corporation purchase land. He also asked about determining the value of a site. Mr. Sykes stated that Genesis wants to give property owners a fair shake. The company has a lease option agreement that allows it to go onto the land to measure the wind resource.

Rep. Overly asked if there was a requirement to post a bond so there are funds available to dismantle the turbines at the end of the thirty year life cycle. Mr. Sykes stated that the lease option agreement contains language regarding the dismantling of the turbines. The company hopes to retrofit or refit the project at the end of its life cycle. It has not discovered anything in place for bonding, but would be agreeable to doing that.

Rep. Overly asked if it was true that if the business did not succeed and the corporation was not there, these turbines would be abandoned on the landscape, absent some bonding requirement. Mr. Sykes stated that was correct.

Rep. Hall introduced Roger Ford, Senior Partner, CNG Energy, LLC, who discussed the utilization of the natural gas resources. CNG Energy was recently formed and is seeking to commercialize natural gas for transportation specifically. Mr. Ford stated that CNG was able to identify three revenue streams: vehicle conversion systems; fueling infrastructure; and market distribution. He said that CNG's focus was the development of private and public fleets.

Mr. Ford explained that CNG Energy was awarded a grant through the Kentucky Science and Technology Corporation (KSTC) that will identify technology for the best function and fit. The University of Kentucky Center for Applied Energy Research (CAER) is conducting the technical feasibility study. CNG has also contracted with Dr. Roger Bezdek of the Management Information Services in Washington, D.C. to conduct an eco-

nomic cost benefit analysis for the state of Kentucky.

Mr. Ford stated that there are 120,000 natural gas powered vehicles on the road. Globally that number would be 10 million. There are more than 1100 natural gas fueling stations in the United States and approximately 50% of those are available for public use. On average natural gas costs about one-third less than conventional gasoline. There are approximately 50 manufacturers who produce 150 models of light, medium and heavy duty vehicles and engines. Mr. Ford said that a dedicated natural gas vehicle reduces emissions of carbon monoxide by 70%; non-methane organic gas by 97%; nitrogen oxide by 87% and carbon dioxide by almost 20%.

Mr. Ford stated that a popular question concerns the safety of the tanks. He stated that CNG dissipates in the atmosphere in case of an accident. Fuel storage cylinders used in NGV's are much stronger than gasoline fuel tanks. They have sealed tanks that prevent spillage or evaporative losses, and it has a higher ignition temperature than gasoline. CNG is not toxic or corrosive and will not contaminate ground water. Mr. Ford discussed the Oklahoma Model, incentives, laws and regulations applicable to natural gas.

Rep. King asked for information on conversion kits, converting diesels trucks to natural gas. Mr. Ford stated that by using the conversion kits, using 80/20 blend, it was possible to achieve more horsepower. Before installing the kits, one has to be certified.

Rep. Hall asked about the typical cost for a conversion kit. Mr. Ford stated that on the high range a kit could cost \$10,000. There is a 50% tax credit available from the federal government to help offset the cost.

Rep. Hall asked Mr. Ford to break down the price per gallon of gasoline versus natural gas. Mr. Ford stated that it would be 40% less of whatever someone is paying at the pump.

Rep. Hall asked if hybrids could be converted to natural gas and have the battery combination with fuel. Mr. Ford stated that he did not think the technology was there for that yet.

Sen. Boswell asked if it had been tested with bio-fuels and whether it worked. Mr. Ford stated that it would work.

The meeting adjourned at approximately 11:40 p.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 5th Meeting of the 2009 Interim October 7, 2009

The 5th meeting of the Special Subcommittee on Energy was held on Wednesday, October 7, 2009, at 10:00 AM, at the Eastern Kentucky Expo Center, Pikeville, Kentucky. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Keith Hall, Chair; Senators David E. Boswell, Ray S. Jones II, Bob Leeper, Dorsey Ridley, John Schickel, Gary Tapp, and Johnny Ray Turner; Representatives Rocky Adkins, Leslie Combs, Tim Couch, Jim Gooch Jr., Thomas Kerr, Lonnie Napier, Fred Nesler, Tom Riner, and Fitz Steele.

Guests: Wayne Rutherford, Pike County Judge Executive; Donovan Blackburn, Pikeville City Manager; Speaker Greg Stumbo; Governor Paul Patton, President, Pikeville College; Charles Baird, Action Now; Zbigniew Resiak, Program Director, and Mike Pahud, CFO, Agresti Biofuels, LLC; Kevin West, Managing Director, External Affairs, and Lloyd Hall, Vice President, Pipeline Operations, EQT Corporation; Phelps Academic Team.

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

Minutes of the September 18, 2009 meeting were approved, without objection, by voice vote, upon motion made by Sen. Boswell and seconded by Rep. Adkins.

Chairman Hall introduced Speaker Greg Stumbo; Governor Paul Patton; Donovan Blackburn, Pikeville City Manager; and Wayne Rutherford, Pike County Judge Executive for welcoming comments.

Chairman Hall introduced Charles Baird, Action Now, for a presentation. Mr. Baird explained Amendment No. 2542 to the United States House Resolution 2996. The purpose of the amendment was to prohibit the expenditure of funds for the approval of permits associated with certain mining operations. It states that no funds may be used by the Administrator of the Environmental Protection Agency to approve any permit associated with any surface mining activity that involves the removal of an entire coal seam from outcrop to outcrop, or of seams running through the upper fraction of a mountain, ridge, or hill, by removing substantially all of the overburden off the mine bench. Mr. Baird stated that the amendment failed to pass.

Mr. Baird also stated that there is a federal proposal to eliminate nation-wide permits in only the Appalachian states. If that happens, then Kentucky operators will have to obtain individual permits. The process

for individual permits could take years, and some are already applying for individual permits because the use of nation-wide permits has been suspended.

Rep. Hall asked how many permits had been pulled. Mr. Baird stated there are 49 permits in Eastern Kentucky, 79 total permits. Permitting is one of the top two problems facing the mining industry. He said that altogether there are 98,000 people with mining relating jobs; 6,000 people work on surface mines, and the wages for surface miners is \$354 million. He stated that 42% of the coal produced in Kentucky comes from surface mining. If permits are not granted in a timely manner, Eastern Kentucky will be in serious trouble.

Mr. Baird said the other issue that could cause economic hardship is the proposed federal greenhouse gas cap and trade program. If implemented, Mr. Baird said that this program could cost the average American family an additional \$1,700 per year in utility bills causing an even more significant financial impact on the people of Kentucky.

Several legislators expressed their concern about the cap and trade program and what it would do to industries that depend upon cheap electricity. Industries may decide to move their operation to other countries. The people of the coal industry need to organize and become more united in their cause.

Rep. Adkins stated that if Congress would adopt the energy policies that have been passed here in Kentucky, we would be able to accomplish the goals that we need in this country.

Chairman Hall stated that Ben Chandler and John Yarmuth should not support cap and trade.

Rep. Steele said that there is not a coal company in east or west Kentucky that the landowner has not agreed to let them step foot on their land, mine their land, and reap the benefits. Washington should not tell our people what to do with their land.

Chairman Hall introduced Zbigniew Resiak, Program Director, and Mike Pahud, CFO, Agresti Biofuels, LLC for a presentation on the Central Appalachian Ethanol Plant. Mr. Resiak stated that EPA is coming out with a new rule regarding air emissions. They will be seeking to reduce emissions of CO₂, methane, and two other gases. They will have to be accounted for, managed, and put on the bottom line. Cap and trade is not coming, it is here.

Mr. Resiak explained that Agresti Biofuels, LLC seeks to build a facility in Pike County that will convert municipal solid waste into ethanol by using a weak acid hydrolysis pro-

cess. (The waste that is processed will be a means for providing carbon credits). Every ton of garbage that is processed generates a partial carbon credit. Mr. Resiak said that the processing of waste into saleable products eliminates the need for maintaining a landfill.

Mr. Resiak said that the Governor supports the Agresti Biofuels' proposal and is may provide \$8 million toward the project. Agresti will provide \$5 million of its own funds. Mr. Resiak stated that Agresti needs the support of legislators and would appreciate any help to push the project through.

Sen. Boswell stated that it is important to have consistency in our National Energy Policy. A long-term national energy policy that is not political is necessary.

Rep. Adkins asked how much it would cost to build the full plant, and how many tons of garbage would the plant be able to handle. Mr. Resiak stated that the total project cost per site is \$200 million. He said that the facility could handle 1,500 tons per day.

Rep. Adkins asked how much garbage the demonstration plant could handle, and how many tons a day now go into the landfill. Re. Resiak said that the demonstration plant could handle 100 tons per day. The landfill receives 345 tons a day.

Mr. Pahud, CFO of Agresti Biofuels, states that the plant would process municipal waste at a price point that is much lower than what is available right now. That alone would fund and ensure the viability of the plant.

Chairman Hall introduced Kevin West, Managing Director, External Affairs, and Lloyd Hall, Vice President, Pipeline Operations, EQT Corporation. Mr. West stated that EQT is the largest producer of natural gas in the Appalachia basin, operating in Pennsylvania, West Virginia, Virginia and Kentucky. He stated that EQT has over 5,000 wells, many of them located in Pike, Knott, Floyd and Letcher counties with 1.4 million gross acres along 3,700 gathering lines.

Mr. West said that in 2008, EQT's financial impact on Kentucky was \$762 million in capital investment, with a \$1.7 billion annual economic impact. In 2008, EQT paid approximately \$31 million in taxes. He said they were proud to have been able to distribute approximately \$650,000 in charitable contributions to Kentucky charities.

Mr. West said that EQT recently completed construction of the Big Sandy Pipeline consisting of 70 miles -- 20 inch pipeline. During the project, EQT was certified by the Wildlife Management Council.

Mr. West stated that the low cost of natural makes it a viable fuel alternative. Natural gas that is produced in eastern Kentucky can be used to fuel vehicles. Transportation costs for the coal industry could be reduced to make it more competitive by using trucks fueled by CNG. Mr. West said that the United States sends \$350 billion a year overseas for petroleum. If all of the 244 million vehicles in the U.S. were converted to natural gas, there would be a 68% reduction in the import of foreign energy.

Mr. West stated that EQT has been a part of innovative technical breakthroughs such as horizontal air drilling which allows EQT to bring up more gas while minimizing surface disturbance.

Meeting adjourned at 12:35 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Families and Children

Minutes of the 2nd Meeting of the 2009 Interim September 16, 2009

The 2nd meeting of the Subcommittee on Families and Children of the Interim Joint Committee on Health and Welfare was held on Wednesday, September 16, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Tom Burch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Tom Burch, Co-Chair; Senators Perry B. Clark, and Joey Pendleton; Representatives Scott W. Brinkman, and Reginald Meeks.

Guests: Mike Waford for the Kentucky Center for the Institute of Discipline; and Eric Clark for the Kentucky Association of Health Care Facilities.

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

The first item on the agenda was a discussion of the SIAC/RIAC programs by Anita Jennings, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services, and Michelle Blevins, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services. Ms. Jennings said that these programs are State and Regional Interagency Council's that provide services to children with emotional disabilities. They have been in existence for 20 years and utilize \$30 million in system-of-care grants that benefit agencies and citizens across the Commonwealth. SIAC makes an-

nual recommendations to the Legislative Research Commission and the Governor concerning how it successfully serves the youth of Kentucky. The SFY 2010 recommendations include new public health approaches, suicide prevention, and focusing on transition age youth. Ms. Jennings detailed the suicide prevention efforts of her program. She said anyone needing suicide prevention services can access the website www.kentuckysuicideprevention.org or the toll free number 1-800-273-TALK.

Senator Stine asked what information relating to suicide prevention is available for the general public. Ms. Jennings said the national "Signs of Suicide" Program works for schools and universities as well. She said they are also doing a social marketing campaign about suicide prevention.

Senator Stine asked if the toll free suicide number would offer people post-help. She said they will refer anyone for needed help after a suicide attempt.

Next, Michelle Blevins discussed the Kentucky Impact Program. She stated that the program started in 1990 as a grant from the Robert Wood Johnson Foundation. The program utilizes wraparound services for children, youth, and families to identify and coordinate services and supports for children and youth involved in multiple child serving entities and who have a severe emotional disability. KY Impact serves 6,000 children and youth representing all 120 Kentucky counties. Two individuals who have received KY Impact services testified. Anthony Bixler and Brandon Lane gave accounts of their positive experiences with the program and said that the program had benefited them a great deal. Also, a KY Impact case worker, Sed Williams, testified and described how children and youth are referred into the program and how the program works closely with school systems.

Senator Stine asked Mr. Bixler and Mr. Lane how they found out about Kentucky Impact. Mr. Bixler said that he found out about Impact services through his mother and that he was given access to Impact services through Seven Counties. Mr. Lane said he found out about Impact through Sed Williams, the Impact case worker at his school and he was given access to services through Seven Counties as well.

Representative Meeks asked what happens to the kids after graduation. Ms. Blevins said that average length of time to receive Impact is around 20 months. Mr. Bixler is no longer receiving Impact services and is planning to attend college.

Senator Stine asked Mr. Williams if the kids he helps are able to access

tutors through schools, or members of the National Honor Society. Mr. Williams said kids volunteer to be tutors through the extended school services program and teachers provide tutoring as well.

The last item on the agenda was a presentation on the American Recovery and Reinvestment Act (ARRA) which provides federal stimulus funds to states. The presentation was given by Beth Jurek, Executive Director, Office of Policy and Budget, Cabinet for Health and Family Services. Ms. Jurek told the subcommittee the stimulus funds are not recurring funds and that most of the ARRA funding must be completely spent by December 30, 2010. Ms. Jurek relayed to the subcommittee that the Kentucky Department for Mental Health, Developmental Disabilities and Addiction Services, the Commission for Children with Special Health Care Needs, the Department for Family Resource and Youth Services Centers, and the Office of the Ombudsman were departments and offices not affected by the ARRA Act and received no funding.

The subcommittee was given a detailed report by Ms. Jurek concerning the departments that did receive ARRA funding; including the Department for Aging and Independent Living, the Department for Community Based Services, the Department for Income Support, the Department for Public Health, the Department for Family Resources and Volunteer Services, and the Department for Medicaid Services. Details were presented showing increased funding for the Senior Community Service Employment program that provided over \$450,000 to Area Agencies on Aging and allowed for subsidized employment for unemployed seniors. Additionally Senior Nutrition Programs received more than \$1.3 million with over \$1.1 million of that money to be spent in State Fiscal Year 2010.

Ms. Jurek also reported that funding in excess of \$34 million was provided to the Child Care Development Fund and included child care assistance for low-income working families and child abuse and neglect preventive services. Community Services Block Grants received nearly \$17 million and funded programs, such as food banks and provided for emergency assistance for basic needs. The Foster Care and Adoption Assistance Program received almost \$12 million and funding was provided for the care and support of children removed from parental custody and to restore funding for private child care providers. The SNAP food stamp program received more than \$5 million for additional benefit dollars, additional administrative funds to process the increased applications, and to hire

interim workers. The TANF Program will only receive funds if caseloads increase and the program received \$1.3 million for a three quarter period. The Department for Income Support and the Child Support division will receive nearly \$29 million for the benefit of children, custodial parents, and local programs. The WIC program will receive approximately \$2.5 million for system enhancements. The First Steps program will receive more than \$5 million for the benefit of improving the outcomes for infants and toddlers up to age three. The immunization grant program will receive \$2.6 million for vaccine assistance and an additional \$2 million grant concerning the H1N1 vaccine. The Department for Family Resources and Volunteer Services will receive over \$400,000 in AmeriCorps funds and nearly an additional \$400,000 for the Corporation for National and Community Service. Finally, Ms. Jurek stated that the Kentucky Medicaid Program will receive an estimated \$990 million to handle the increase in applicants for services.

Senator Stine asked if there had been an increase in the people asking for help with the child care assistance program. Ms. Jurek said that there had been a huge increase and now it has leveled off.

Senator Stine asked if all the programs are getting equal shares of the money. Ms. Jurek said the federal government decides what programs get the funding, and it is not equally divided. She also reiterated the four agencies that did not get any funding at all.

Senator Stine asked what quality initiatives are. Ms. Jurek said that \$4 million went to quality initiatives. This includes money to improve the quality of daycares, as well as training for daycare providers.

Senator Stine asked how folks in the community can access the funding. Ms. Jurek said they should contact their local community action agencies.

Senator Stine asked about the stimulus funds for vaccines and if it includes the H1N1 vaccine. Ms. Jurek said that stimulus funds would be used for the H1N1 vaccines, but that is not included in the \$2.6 million total.

The meeting was adjourned at 11:20 a.m.

**INTERIM JOINT COMMITTEE
ON HEALTH AND WELFARE
Subcommittee on Families and
Children
Minutes of the 3rd Meeting
of the 2009 Interim
October 21, 2009**

The 3rd meeting of the Subcommittee on Families and Children of the Interim Joint Committee on Health

and Welfare was held on Wednesday, October 21, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Tom Burch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senator Perry B. Clark; Representatives Brent Housman, and Joni L. Jenkins.

Guests: Eric Clark for the Kentucky Association of Health Care Facilities; and David Graves for Brooklawn.

LRC Staff: Ben Payne, Amanda Dunn, and Cindy Smith.

The first item on the agenda was an update on the First Steps Program by Ruth Ann Shepherd, MD, FAAP, Director, Maternal & Child Health, Acting Director, Division of Women's Health, Department for Public Health, Cabinet for Health and Family Services; and Paula Goff, Part C Coordinator, First Steps Program, Department for Public Health, Cabinet for Health and Family Services. Ms. Goff said that the First Steps Program is a statewide early intervention system that provides services to families with children from birth to age three who have developmental disabilities.

Ms. Goff discussed with the committee that First Steps focuses on providing family centered services by utilizing a Consultative Model. This is done by a therapist providing consultation and instruction to the child's caregivers, who in turn actually provide the interventions throughout daily routines. The specific services provided through the Consultative Model are based upon the Individual Family Service Plan, known as an IFSP, which is developed for each child and family participating in the First Steps Program. The subcommittee learned that there is a national four tier ranking system for these types of programs. Kentucky is currently at level three and anticipates rising to level two by June 2010. Kentucky's federal funding is not in danger as long as the state program does not drop to level four.

The subcommittee learned that 12,900 children are served each year by First Steps and that there are currently 6,462 Kentucky children with and active ISFP. First Steps is funded through a combination of General Fund dollars, Tobacco Settlement Funds, Family Share, Insurance, Medicaid, Federal Part C, and Federal ARRA funds.

Representative Burch asked about Kentucky's rank and how it is determined. Ms. Goff said there are annual performance reports completed every February and after the next performance report, Kentucky should be able to move to a level two by June, 2010.

Representative Housman asked if Kentucky's determination as a level three puts federal funding in jeopardy. Ms. Goff said the funding would only be in jeopardy if Kentucky dropped to a level four.

Representative Housman asked if there is a timeline for level movement. Ms. Goff said yes, and there are visits with OCEF every three months.

The final item on the agenda was a presentation on Psychiatric Residential Treatment Facilities (PRTF's) by Kerry Harvey, General Counsel and Acting Inspector General, Office of Inspector General, Cabinet for Health and Family Services; and Stephanie Brammer-Barnes, Policy Analyst, Office of Inspector General, Cabinet for Health and Family Services. The subcommittee heard testimony that described what PRTF's are and where they are located throughout the state. PRTF's have existed in Kentucky since 1991 and are for patients age 6 to age 21 who have an emotional or severe emotional disability. Currently there are 21 PRTF's in the Commonwealth. As of October 2009, there are approximately 189 PRTF patients. The state has a CON capacity for nearly 100 more patients.

Staffing requirements were discussed showing that the professional requirements range from high school diploma minimums for the majority of staff, to college degrees for those staff that run the facilities. The subcommittee learned that during 2008, 228 children were provided care in out-of-state facilities due to the fact that Kentucky PRTF's cannot offer them the treatment services they need. Additionally the subcommittee learned that the average per day payment for out-of-state care is \$340 and the average per day payment for in-state care is \$400.

Representative Burch asked if there is a psychiatrist on site or on call. Ms. Brammer-Barnes said a psychiatrist is on call, but is also required to be there at least one day each week.

Representative Burch said after talking with providers, he learned that 18 girls could be worked into two different PRTF's in Jefferson County from out-of-state facilities if the regulation was changed just a bit, and he requested to meet with Mr. Harvey and Ms. Brammer-Barnes after the meeting to discuss that.

Representative Burch asked if the \$339.10 per day per resident includes parent transport. Mr. Harvey said the per diem does not include parent transport.

Representative Burch asked what the outcomes are of out-of-state children. Mr. Harvey said the outcomes are all over the board; some get bet-

ter, while others do not. Mr. Harvey said that he is sure that outcomes data exists within the Cabinet, but that data is not in the Office of the Inspector General.

Representative Jenkins asked how many kids are out-of-state daily. Mr. Harvey said there are currently between 40 and 60 children from Kentucky in out-of-state facilities.

Representative Jenkins asked how much money is paid out-of-state for care of children from Kentucky. Mr. Harvey said he did not have any idea, and that information is not in the purview of the Office of the Inspector General.

Representative Jenkins asked if the kids that have been placed out of state are in PRTF's or psychiatric hospitals. Mr. Harvey said some are in facilities similar to PRTF's, and some are in facilities more like hospitals.

Representative Jenkins said the committee is going to need the answers to these questions in the coming week. Mr. Harvey said that the results from the survey on out-of-state kids could be provided to the subcommittee members.

Representative Burch said there are 100 beds that are still available and asked why they are not being utilized. Mr. Harvey said that the CON has been granted, and the beds are being built. Representative Burch said there are many beds available in rural areas and he asked why those beds are not online. Mr. Harvey said no provider has stepped forward to provide those beds.

Representative Burch asked if the Cabinet is actively looking for providers to fill the beds. Mr. Harvey said the providers must be committed to the project and the staffing can be taken care of.

Representative Housman asked if Kentucky has the capacity and the training to treat the children that are in out-of-state facilities. Mr. Harvey said the specialized treatment does not exist in Kentucky to treat that group of out-of-state children.

Representative Burch asked if all out-of-state kids are monitored. Mr. Harvey said efforts are in place, but it is very difficult to monitor children in other states.

The meeting was adjourned at 11:10 a.m.

**INTERIM JOINT COMMITTEE
ON JUDICIARY
Minutes of the 4th Meeting
of the 2009 Interim
EKU Manchester Campus Building
October 2, 2009**

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, October 2, 2009, at 10:00 AM, in Manchester, KY. Senator Robert Stivers II, Chair, called the

meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Senators Perry B. Clark, Ray S. Jones II, Mike Reynolds, John Schickel, Dan "Malano" Seum, and Katie Kratz Stine; Representatives Jesse Crenshaw, Kelly Flood, Stan Lee, Mary Lou Marzian, Harry Moberly Jr., Darryl T. Owens, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Dr. Doug Whitlock, President, Eastern Kentucky University; Hon. John D. Minton, Jr., Chief Justice of Kentucky; Hon. Sara W. Combs, Chief Judge, Kentucky Court of Appeals; Hon. Thomas J. Clark, Chief Regional Circuit Judge, 22nd Judicial Circuit, Fayette County, Past President, Circuit Judges' Association; Hon. Larry E. Thompson, Family Court Judge, 35th Judicial Circuit, Pike County, President, Circuit Judges' Association; Hon. Karen A. Thomas, Chief Regional District Judge, 17th Judicial District, Campbell County, President, District Judges' Association; and Hon. Kirk Tolle, Mason County Circuit Clerk, President, Kentucky Association of Circuit Court Clerks.

LRC Staff: Norman W. Lawson, Chief Staff Administrator; Ray DeBolt, Jon Grate, Joanna Decker, Carolyn Gaines, and Christy May.

Senator Stivers called the meeting to order, a quorum was present, and the minutes of the August and September meetings were approved. The first speaker was Dr. Doug Whitlock, President of Eastern Kentucky University who complimented Senator Stivers on his vision and support for the building in which the committee meeting was held. President Whitlock then proceeded to stress the mission of the university as student success, regional stewardship, and use of a quality enhancement plan. President Whitlock then described the recent academic successes of the university.

The next speaker was Chief Justice John D. Minton, Jr. of the Supreme Court of Kentucky, accompanied by Ms. Laurie Dudgeon, Director of the Administrative Office of the Courts. Justice Minton introduced judges and other persons who would be speaking to the committee and recognized other judges and circuit clerks in the audience.

Justice Minton proceeded with his "state of the judiciary" report in which he described recent successes in the court system as completing efforts made to satisfy bonding requirements for new judicial buildings under construction throughout the state, securing a bonding opinion, and settlement agreements with contractors which have resulted in all construction projects being properly

bonded. Justice Minton announced that construction of new court facilities in the current six-year plan will be placed on hold until the economy improves. Justice Minton described as painful the recent elimination of 47 positions at the headquarters of the Administrative Office of the Courts which will result in a savings of \$4.5 million and warned that, in order to meet the judicial branch budget deficit, further cuts in personnel may be necessary because 87% of the Court of Justice budget consists of personnel costs. Justice Minton reported that the courts are in the process of filling 28 judicial vacancies resulting from recent retirements and the sunseting of the Senior Status Judge program. Justice Minton observed that 17 vacancies have already been filled but that since some of the Circuit Court vacancies were filled by District Judges appointed to the Circuit Court bench, that 3 additional vacancies were created and that there are now 13 vacancies remaining to be filled. Justice Minton reported that not filling the vacancies and utilizing 67 retired judges who are participating in the Senior Status Judge program had saved the state \$3 million. Justice Minton observed that more of the Senior Status Judges are reaching their service limit and that by 2011 very few judges will still be participating in the program.

Representative Moberly asked the Chief Justice if he had heard concerns from prosecutors that the use of Senior Status judges that prosecutors needed more funding to handle the cases assigned to Senior Status judges. Justice Minton responded that he had heard these concerns and the concerns of public defenders and Circuit Clerks of a similar nature and that the use of Senior Status judges to dispose of cases required sensitivity and the cooperation of all involved. Justice Minton commented that the assignment of Senior Status judges to these cases was not just to create work for the judges but to make certain that cases were handled in a prompt manner. Justice Minton reported that 1.2 million cases were filed in the courts.

Justice Minton then described the Supreme Court as the state court of last resort and the final interpreter of Kentucky law. He said the Supreme Court hears all appeals from the Circuit Court resulting in criminal cases where the death penalty is imposed, a life sentence is imposed, or a sentence of 20 years or more is imposed, and that all other appeals normally go to the Court of Appeals prior to reaching the Supreme Court. The Supreme Court consists of seven Justices elected for eight-year terms from seven Supreme Court districts. Justice Minton then described the

various other courts within the system and their jurisdiction. Justice Minton described the Administrative Office of the Courts as the service arm of the court system and that only 16 states have a unified court system which Kentucky adopted in 1976. Justice Minton described the functions of the Administrative Office of the Courts as constructing and operating court facilities, drug court programs, the pretrial release program, a training division, court designated workers in juvenile court, and other programs.

Senator Stivers asked if the Senior Status Judge program would end in 2011 to which Justice Minton replied that the program would expire when the final judge participating in the program reached 600 days of service, which might last past 2011. Justice Minton then discussed proposals to change court facilities construction from the Administrative Office of the Courts to the Finance Cabinet and stated that the courts were considering the matter but that no decision had been made.

Senator Jones asked the Chief Justice to look into several problems, the first of which was the failure of the ethics hotline personnel of the Kentucky Bar Association to deal promptly with and in some cases not answer ethics questions asked by lawyers and observed that the Bar Association is more punishment-oriented than helpful in ethics matters. Senator Jones observed that lawyers who want to be ethical and seek advice from the Bar Association are not receiving that advice. The second problem that Senator Jones addressed was that of lawyer advertising, particularly soliciting clients the day after an accident or other incident along with solicitation by chiropractors and others. Soliciting a day after the wreck is a pervasive problem, and lawyer advertising in the media "makes a joke of what we do," Senator Jones commented. Justice Minton responded that the ethics matter at the Bar Association would be looked into but that he was proud of the establishment of the ethics hotline and that ethics is a matter of complexity. Justice Minton promised to bring the matter to the Bar Association's attention. With regard to the matter of lawyer advertising, Justice Minton responded that much regulation of lawyer advertising has First Amendment free speech implications and that many restrictions on lawyer advertising had been overturned by the Supreme Court of the United States. He said he would discuss the specifics of the matter in private with Senator Jones. Representative Flood commented that the \$4.5 million in layoffs at the Administrative Office of the Courts would

not go far to help with the overall budget deficit to which Justice Minton agreed and indicated that additional revenue would be needed to avert further layoffs.

The next speaker was Sara Walter Combs, Chief Judge of the Kentucky Court of Appeals. Judge Combs observed that the Kentucky Court of Appeals has appellate jurisdiction over most cases appealed from the Circuit Courts, some state agencies, and that the court also handles appeals Circuit Court decisions on judgments from District Court. All cases handled by the Court of Appeals are on the judgment from the courts below and are not retried as new cases. Judge Combs observed that the Court of Appeals consists of 14 judges, elected for eight-year terms, and that two judges are elected from each Supreme Court district. Judge Combs reported that the Court of Appeals hears and disposes of 2,000 cases a year and that the goal that the court has set for itself is to render a decision on an appeal within six months of its filing. Judge Combs observed that the first concern of the court is for quality of its work product with the second concern being speed, and that family matters are on a fast track with the court. Senator Reynolds commented that his father had the honor of serving on both the Court of Appeals and the Supreme Court.

The next speaker was Pike Family Court Judge Larry Thompson, President of the Circuit Judges Association. Judge Thompson indicated that there are 51 Family Court Judges serving in 35 circuits who are elected for a term of eight years and that the Family Court is a hybrid court in that it handles cases traditionally handled by the District Court and the Circuit Court in cases where family matters are involved. Judge Thompson explained that the objective of the Family Court is that it handles in one court all matters related to the family which used to be handled by the District Court and the Circuit Court, sometimes with differing results. Judge Thompson indicated that in 2004, Family Courts had 102,000 case filings while so far in 2009 there have been 112,000 case filings for a 9.5% increase in case filings. Pike Family Court disposed of 1,119 cases last year, and the goal of Pike Family Court has been to reduce the time to handle such cases from one year to 90 days.

Judge Thompson indicated that, although there has been an increase in the number of Family Court judges in recent years, Family Courts are not yet available in every judicial circuit. He commented that, while Family Courts take some cases from District Courts and some from Cir-

cuit Courts, realignment of judges in those courts reducing the number of District Judges or Circuit Judges has leveled the caseloads between the courts. Several legislators requested statewide Family Court caseload information which Judge Thompson indicated that the Administrative Office of the Courts would provide to the members. Representative Yonts commented that the General Assembly, when authorizing Family Courts, prohibited the use of domestic relations commissioners and similar persons and asked if any courts were still using domestic relations commissioners and similar persons. Judge Thompson indicated that he did not use commissioners and that he would provide information as to whether any remained in the system.

Judge Thompson indicated that he is a firm believer in mediation if both parties want it in domestic relations cases but that he does not use mandatory mediation in lieu of court hearings. When asked about mandatory custodial investigations, Judge Thompson indicated that he knew of one court that did so but that the costs were about \$1,500 per case. Senator Jones praised the work that Judge Thompson has done in Pike County. Senator Seum asked why acts of domestic violence are tried in normal District Court and Circuit Court when domestic violence orders are handled in Family Court, to which Judge Thompson responded that domestic violence orders are civil in nature and actual acts of domestic violence are criminal in nature, such as assaults which must be tried in District Court if misdemeanors and in Circuit Court if felony assaults, this means that persons end up in two different courts with two different lawyers. Judge Thompson explained that for violation of a Domestic Violence Order the person who was the petitioner in the case has an option to seek contempt of court in the Family Court where the judge can sentence a person to 180 days in jail or the matter can be handled in the District Court as a misdemeanor where the judge can sentence a person to up to 12 months in jail.

Representative Moberly indicated that many Family Courts have truancy court programs in conjunction with local schools and that these programs have cut truancy dramatically which has resulted in an increase in state funding for schools since state school funding is based on attendance. Senator Rhoads commended Judge Thompson on coping with workloads in the Family Court and asked if studies had been done in the shift in caseloads in District Court and Circuit Court in jurisdictions where a Family Court had been

created and what would be looked on as an ideal caseload. Judge Thompson responded that Justice Noble of the Supreme Court is currently considering Family Court rules and juvenile problems but that no full studies had been conducted.

The next speaker was Chief Regional Circuit Judge Thomas Clark from Fayette County who is a "traditional" Circuit Judge and the Past President of the Circuit Judges Association. A "traditional" Circuit Judge operates in a judicial circuit that does not have a Family Court. Judge Thompson indicated that the jurisdiction of the Circuit Court consists of civil matters where more than \$4,000 is in controversy, capital offenses, felony offenses, divorces, adoptions, termination of parental rights, real property title disputes, and contested probate matters. Circuit Judges serve eight-year terms. Judge Clark indicated that in recent years Daubert hearings in which the qualifications of "expert" witnesses can be challenged have increased in Circuit Court criminal court hearings. Judge Clark indicated that in Fayette County that there are 184 indictments average per month and that some Circuit Judges have 1,400 cases filed per judge per year. Senator Stivers asked what the American Bar Association guidelines for judicial caseloads were to which the Judge responded that 700 to 900 cases per year is the recommended number.

When asked if the process in capital cases was fair, Judge Clark responded that he currently has four capital cases pending, that the Commonwealth's Attorney in Fayette County tries all death eligible cases as death penalty cases to avoid problems with unfair selection and prejudice, that the death penalty has been rarely imposed by juries in Fayette County and that qualified defense counsel are needed. In the past, Judge Clark indicated, there were problems with jury selection but that the Administrative Office of the Courts' new computerized jury selection program will give a more random cross section of the community. Representative Stan Lee commented that the Judge was hard-working, competent, and fair.

With regard to advertising by attorneys, Judge Clark indicated that after a "fender bender" accident his mother was solicited by an attorney within 24 hours. Judge Clark commented that when his mother told the attorney that her son was a judge and she would contact him about what to do, the lawyer hung up. Senator Jones indicated that in Pike County a lawyer showed up at the home of a person within 24 hours and that it appears that Kentucky State Police troopers are pro-

viding accident information to lawyers. Senator Jones then spoke of an incident in which a Bowling Green lawyer reported another lawyer to the Bar Association, the Bar Association did nothing, and the reporting attorney was sued by the attorney who had been reported. Senator Jones reported that in another case he was retained for a person who indicated that another lawyer had called the week before, even prior to the release of the accident report by the Kentucky State Police.

The next speaker was Chief Regional District Judge Karen A. Thomas from Campbell County who is the President of the District Judges Association. Judge Thomas reported that there are 116 District Judges in 60 Judicial Districts, that a District Judge is elected for a four-year term, and that the jurisdiction of the District Court includes, small claims, regular civil actions of \$4,000 or less, local ordinance violations, criminal cases defined as violations and misdemeanors, uncontested probate cases, traffic offenses, and juvenile court. District Court also handles mental health matters and cases in which a person is incompetent to handle their own affairs and a guardian will be appointed following a mandatory jury trial.

Judge Thomas reported that of the 1.2 million cases filed annually in the court system, 500,000 are filed in the District Court. In one county in northern Kentucky, two judges disposed of 10,000 cases each in the past year and Judge Thomas reported that District Judges are on call 24 hours a day, seven days a week for emergency protective orders, setting bail and pretrial release, holding drug court, holding mental health court, conducting truancy programs in schools, and other civic matters. One judge held truancy court at school at 7:00AM prior to the normal daily caseload, held the daily caseload, held mental health court during lunch, and held drug court after the regular court hours.

Senator Schickel observed that Judge Thomas was "an inspiration" and that District Court was truly a "people's court" in that most persons who have contact with the court system have that contact in the District Court. Senator Schickel then commented that the judges' secretaries were very helpful, that they look on their job as "a labor of love," and that they need increased salaries, to which Judge Thomas responded that many secretaries serve several judges. Judge Thomas indicated that the District Courts in northern Kentucky do not use commissioners but use volunteers to help with mental health court, drug court, and other programs.

When asked if the jurisdiction of the small claims division of the District Court should be increased from \$1,500 to a higher amount, Judge Thomas responded that it should not because if a higher amount was chosen, the case would be more complicated and that persons could no longer present the cases themselves as they do now and would be required to hire attorneys to properly represent themselves. Keeping the limit as is promotes access to justice, Judge Thomas responded. With regard to raising the jurisdictional limit of District Court civil cases from the present \$4,000 to a higher amount, Judge Thomas indicated that she opposed that proposal as well indicating that the amount has worked successfully. Chief Justice Minton commented that he agreed with keeping both limits at their present amounts.

Senator Reynolds commented that in his practice he sees more foreign nationals who do not speak English and that in his local schools students spoke 26 different foreign languages. In his district, Senator Reynolds observed that Russian and Spanish are two languages frequently requiring interpreters and asked what percentage of cases required interpreters. Chief Justice Minton responded that he would obtain an exact percentage but that the number of non-English speaking participants in the court system has increased and that Spanish and Bosnian languages frequently require interpreters. The Administrative Office of the Courts has its own court-related trained interpreters on staff and hires outside interpreters as well. He said that many courts now have non-English speaking dockets so that all defendants requiring interpreters can be represented at the same time, thus saving money and better utilizing the interpreters.

The next speaker was Circuit Clerk Kirk Tolle from Mason County who is President of the Circuit Clerks Association. Mr. Tolle indicated that there is one circuit clerk in each county and that circuit clerks are elected for a term of six years. As the number of courts has expanded and the activities undertaken by the courts have expanded circuit clerks, Mr. Tolle indicated, the number of deputy clerks has expanded. Mr. Tolle explained that a circuit clerk is the first person that the public sees when they have contact with the court system, particularly since the circuit clerk serves the District Court, the Circuit Court, and the Family Court. Circuit clerk offices are where civil actions are filed, where people pay bail, fines, court costs, fees, and restitution, and where people obtain driver's licenses. Mr. Tolle indicated that recent statutory and regulatory

changes require more and more of the clerk's time in verifying the information persons submit with their driver's license or identification card applications, and that many clerks would like to discontinue these licensing activities so that they can concentrate on their primary function of serving the courts.

Mr. Tolle indicated that there have been several recent successes for circuit clerks including the 2008 Deputy Clerk Pay Equity program placing court information on line and new electronic initiatives from the Administrative Office of the Courts such as E-filing to appear, E-pay, E-based jury management, and E-warrants; the Senior Clerk program which rehires retired clerks, and the number of deputy clerks which has been increased to handle increasing business but is still short by about 350 deputy clerks.

Mr. Tolle indicated that problems facing circuit clerks include assisting persons who want to represent themselves in bringing or defending a lawsuit, more assistance needed by clients, collection of more and more fees for third parties when the clerk receives no additional assistance for their collection and disbursement, the underfunding by the state Transportation Cabinet of the Drivers License and Identification Card programs coupled with increasing verification workloads for the program, and the fact that the clerk's office is not fee-based and that the clerk has no financial control of the funds which go elsewhere.

Senator Stine asked about problems with KRS 24A.185 and 23A.200 where counties can impose fees on District Court and Circuit Court actions for the purpose of supporting the court system. Senator Stine commented there have been allegations that the counties spend the funds for non-court purposes. Chief Justice Minton indicated that the courts have no control of what counties and other third parties do with the money that the clerks collect for them beyond delivery of the money. Justice Minton further observed that the State Auditor has not audited these funds, to which Senator Stine commented that perhaps the matter should be referred to the Legislative Program Review and Investigations Committee.

Senator Jones asked if the court system is interested in adopting an E-filing system similar to the federal PACER system. Mr. Tolle indicated that the clerks support this, and Justice Minton indicated that he supports E-filing as well and feels that it would save the state money. Justice Minton commented that there is presently no money to implement the system but that "we need to in-

vest in this" and that the six-year plan for the courts includes this type of system. Senator Jones responded that this is one thing we need to do.

The next speaker was Carol Henderson, Budget Director for the Administrative Office of the Courts who indicated that the projected deficit for the Court of Justice will be \$35 million, that a large portion of this deficit occurred when the General Assembly transferred \$22.7 million from the court budget to the General Fund, and that retirement costs plus salary increments authorized by the General Assembly have contributed to the deficit. Ms. Henderson observed that the court system had \$37 million in one-time money available from 2005 operating costs and \$30 million in agency funds, but by the end of 2010 these funds along with \$10 million from fee increases will be depleted.

Ms. Henderson observed that \$120 million will be needed for facilities and operations. Without increases in funding the court system faces the possibility of 1,400 more layoffs out of a current 3,400 employees. Ms. Henderson observed that furloughs could also be used but that they represent a one time savings and that each employee would have to take 76 furlough days per year. Chief Justice Minton commented that the future of the court system is in trouble, 87% of the court system's cost represent people, and that we cannot choose not to hold court. "The business of justice is the business of government," Justice Minton commented. He said the court system comprises 10% of state employees and 3% of the state budget. Justice Minton observed that many of the court system's programs, such as truancy programs, increased attendance at schools thus providing more money, and that diversion programs, such as drug court, save jail and prison costs. Senator Stivers commented that the courts received \$271 million from an original budget of \$295 million.

Representative Flood asked what type of employees had been laid off at the Administrative Office of the Courts central office, to which Ms. Henderson replied records, training, mediators, court security, and similar personnel were laid off. Representative Crenshaw asked about a reported situation that while the court system was laying off some persons they were hiring in other areas to which the reply was that hiring is based on staffing need and has been limited to cases of necessity.

Chief Judge Combs of the Court of Appeals observed that cancer, divorce, and the court system touch every family in Kentucky and service area.

The meeting was adjourned at approximately 12:40 PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 2nd Meeting of the 2009 Interim August 7, 2009

The 2nd meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Friday, August 7, 2009, beginning at approximately 1:00 PM, in Room 171 of the Capitol Annex. Senator Gerald A. Neal, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gerald A. Neal, Co-Chair; Representative John Tilley, Co-Chair; Senators Jerry P. Rhoads and John Schickel; Representatives Johnny Bell, Robin L. Webb, and Brent Yonts.

LRC Staff: Norman Lawson, Chief Staff Administrator; Ray DeBolt, Joanna Decker, Carolyn Gaines, and Christy May.

Senator Neal called the meeting to order, the roll was called, a quorum was present, and the minutes were approved by a voice vote. Senator Neal asked the members that if they needed further information, had suggestions for the Subcommittee or proposals to be drafted for presentation to the Subcommittee, they should send them to Norman Lawson so that the staff can prepare the drafts or supply the information needed. Senator Neal discussed proposed changes to the schedule of the Subcommittee which included:

1. Send proposals for drafts to staff by August 21;
2. Cancel the September 4 meeting in Hopkinsville and replace it with a September 21 meeting in Hopkinsville;
3. Hold the regular meeting in Manchester on October 2 as scheduled;
4. Hold one additional meeting of the Subcommittee, but not the full committee, in Frankfort on October 19;
5. Hold the November Subcommittee meeting in Frankfort on November 6, 2009 at 10:00 AM and the Interim Joint Committee meeting at 1:00 PM so that the Subcommittee can approve its report in the meeting and the full committee can approve the Subcommittee report in the afternoon.

The members agreed that they favored the changes but no vote was taken. Senator Neal summarized the materials contained in the Subcommittee's folder from the Justice

Center of the Council of State Governments and urged the members to read these materials and to read the materials from the Sentencing Project in Washington, D.C. specifically relating to the studies being undertaken by the Subcommittee. Representative Tilley asked the various groups that have proposals to make to the Subcommittee to send in detailed written suggestions identifying the statutes proposed to be changed and the changes desired and identifying in detail any suggested new material.

The meeting was adjourned at approximately 1:30 p.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 3rd Meeting of the 2009 Interim Justice Center September 4, 2009

The 3rd meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Friday, September 4, 2009, beginning at 1:15 PM, at the Justice Center, 100 Justice Way, Hopkinsville, KY.

Present were:

Members: Senator Gerald A. Neal, Co-Chair; Representative John Tilley, Co-Chair; Senators Ray S. Jones II, and Jerry P. Rhoads; and Representative Brent Yonts.

LRC Staff: Norman W. Lawson, CSA; Jon Grate, Joanna Decker, and Carolyn Gaines.

Representative Tilley called the meeting to order and the roll was called. A quorum was not present. Senator Rhoads reported that his group felt that Drug Court has been a success and that the felony drug diversion program authorized by 2009 RS SB 5 shows promise of rehabilitating persons while relieving prison overcrowding. Senator Rhoads described the features of the current Persistent Felony Offender Statute, which he described as having been blamed for prison overcrowding. He indicated that when considering the PFO law a balance must be struck between education, rehabilitation, drug court, alternatives to incarceration, and public safety, and that input from prosecutors, defense attorneys, and judges is necessary. Senator Rhoads observed that the PFO law is tougher than those in most states and that proposals for change have included returning to the original 1974 version of the statute, which required actual imprisonment for prior crimes prior to the use of the PFO statute; whether or not pretrial incarceration time should be counted as a trigger for the PFO statute.

ute; whether the qualifying offenses for PFO should be limited to violent offenses as defined in KRS 439.3401; eliminating the PFO second statute and having only one PFO degree; and requiring prosecutors to choose between the use of the PFO statute or enhancements already found in controlled substance and other offenses and not permitting the prosecutor to use both an enhancement and PFO. Senator Rhoads indicated that he and Representative Bell are open to oral or written comments and recommendations as to how to proceed toward a report. Representative Tilley indicated that we need to be smart on crime and not soft on crime.

Representative Tilley called the attention of the members to a report in the members' folders by Senator Stine and Representative Fischer on Alternatives to Incarceration. The report described progressive sanctions for technical parole violations in lieu of incarceration for such violations, use of community corrections programs, and described the success of the community corrections program in Northern Kentucky.

Representative Tilley also called the attention of the members to a report in the members' folders by Senator Schickel and Representative Hoover on bail, pretrial release, and speedy trial. This report recommended amending KRS 500.110 to provide a trial for misdemeanors within 90 days of arrest or that the person be released from custody pending trial. The report also included a proposed amendment to KRS 431.015 relating to the use of citations to limit the use of physical arrest in Class B misdemeanors committed in the officer's presence unless the defendant is charged with violating named statutes or there is reasonable cause to believe that the person will not appear at the designated time.

The next speaker was Professor Robert G. Lawson of the University of Kentucky Law School. Professor Lawson was one of the original drafters of the Kentucky Penal Code who reported on a five year study that he has made of Kentucky controlled substances laws and their use. This is the focus of a forthcoming law review article. Professor Lawson indicated that the crime rate in Kentucky is about the same as it was in 1970 through 2000, but that the incarceration rate has increased by 700% and that the cost of incarceration has increased from \$10 million per year to \$50 million per year. Professor Lawson observed that approximately 500,000 persons have been released from prison during this time and that the state has done little while they were incarcerated to educate them, provide counseling, provide drug or other treatment programs, or pro-

vide for their reintegration into society. Professor Lawson observed that, when Doug Sapp was a probation and parole officer in the 1970's, the officer to parolee ratio was 1 to 20 and that real counseling could be accomplished, but that today the ratio is 1 to 135 and is inappropriate for adequate supervision or counseling. Professor Lawson commented that the use of county jails to house Class D and Class C felons has resulted in virtually no programs for persons who are confined there for 3-4 years and that jails were not designed to provide rehabilitative programs.

Professor Lawson then turned to the Controlled Substances Act and its implementation. Professor Lawson indicated that the study observed the use of the controlled substances laws in Scott County and Fayette County and that the goal of changes should be to reduce the number of drug offenders in prisons through the use of alternative treatment programs. Professor Lawson indicated that in 1994 there were 1,500 drug offenders in the system while now there are 5,100 and that sentences are too long. He observed that Kentucky does not need to decriminalize drugs but needs to shorten sentences.

Professor Lawson traced the Kentucky law to the Uniform Controlled Substances Act proposed in the 1970's. He made several suggestions for improvement of the current law including: adjusting the severity of penalties to the quantities of drug possessed. Current Kentucky law treats one pill the same as 100 pills; removing the persistent felony offender (PFO) law from KRS Chapter 218A because of the overuse of the PFO statute and statutory enhancements by prosecutors to lengthen sentences and ensure guilty pleas; examining the use of enhancements in the drug laws to reduce their use particularly where misdemeanors are enhanced to felonies; requiring an actual sale of a drug to a minor for this enhancement to apply; requiring the actual use of a firearm in a drug offense for this enhancement to apply; eliminating double counting in drug cases where separate offenses and separate penalties apply to different drugs and which have been permitted by the Supreme Court of Kentucky; eliminating the overcharging where the person is tried and convicted for possession, growing or manufacturing drugs, trafficking in the drugs, and possession of drug paraphernalia; making possession of drug paraphernalia a misdemeanor for all offenses; and reducing the distance for sale of drugs near a school from 1,000 yards to 1,000 or 300 feet as used in other states and require an actual sale to a minor for the statute

to apply.

Professor Lawson indicated that presently any drug offense in Lexington can result in the application of the sale near a school statute and that in 44 of such cases where this charge was used none of the crimes involved sale to a minor. He suggested making possession of marijuana a fine-only offense and not applying the sale within 1,000 yards of a school statute to acts within a person's residence, or when a vehicle is stopped unless the sale is to a minor. Senator Neal observed that prosecutors use the sale near a school and other statutes as a "club" to obtain convictions and that Kentucky should look more toward reality and proportionality. In response, Professor Lawson indicated that he understood that prosecutors dealt with the worst people on earth but that, since the crime rate has increased only 3% from the 1970's, Kentucky needs a sense of proportionality in the use of incarceration and that alternatives to incarceration, treatment programs, and other similar programs result in persons who are less likely to recidivate and who are more likely to become productive law abiding citizens.

Professor Lawson observed that the average reading level of inmates in prisons is 6th grade and that GED and similar educational programs are not readily available in prisons, that few inmates take advantage of educational programs, and that jails offer no programs at all. He urged ending the incarceration of felons in jails. Professor Lawson urged the members of the committee to read the draft of his article, "take the study apart," and make suggestions to him.

Representative Yonts asked Professor Lawson about his thoughts on the Penal Code study and draft prepared by Professor Robinson for the Justice Cabinet several years ago. Professor Lawson observed that prosecutorial representation skewed the study and that prosecutors and defense attorneys parted company. Professor Lawson was then asked about "truth in sentencing," which he observed was a creation of the federal government and was totally incompatible with the sentencing philosophy of the Penal Code, which emphasized rehabilitation and encouraged the use of parole. Professor Lawson said that Kentucky had a better program in 1974, and that the current code and the operations of the parole board emphasize punishment as the philosophy. He commented that some other states have used sentencing guidelines with shorter penalties, which takes sentencing decisions from prosecutors and judges. Professor Lawson commented that in Kentucky the judge

was given the authority to reduce the sentence but not increase the sentence and that, now, prosecutors set the sentence and there are not trials. Professor Lawson said that total revision of the Penal Code cannot be done at this time, but that Kentucky needs to look at philosophy and make selective reforms as needed.

Representative Tilley commented that the committee is interested in hearing from legislators from Texas and Kansas to see how those states have handled their increasing prison populations. Professor Lawson indicated that Texas had one of the worst incarceration and incarceration cost programs, and that two of the leaders in making needed changes to their laws were Minnesota and North Carolina, and Kentucky should look to those states for guidance. Senator Rhoads commented that the current Kentucky PFO statute is a major driver of incarceration and prosecution leverage. He commented that mediation in criminal cases is working in his area of the state and shows promise for the entire state.

The next speaker was Lynn Prior, Commonwealth's Attorney for Christian County, who indicated that she agreed that many crimes involve drugs, are drug related, involve theft to obtain money for drugs or drugs, and that many offenders are users and not traffickers. Ms. Prior indicated that marijuana guidelines are needed, that quantities need to be established for methamphetamine and cocaine offenses, and that users would benefit from treatment. She said that, for traffickers, confiscation of property and money has not worked because the trafficker's addiction is to money and not to drugs. Ms. Prior praised the work of the Trilogy Center at Western State Hospital, observed that Kentucky may be driven by costs relating to incarceration, and wondered about the cost to the citizen without putting these people in jail. These criminals hurt themselves, their children, their families, crime victims, and the taxpayers. Very few of these persons are first time drug offenders and they have "worked hard" to get to prison. Most committed many crimes before they were caught and many had already been on probation or pretrial diversion and had failed. Ms. Prior observed that there is a public backlash from early release of prisoners, that she has trouble advising victims as to how much time defendants will serve, and commented that the federal government has done away with parole and that perhaps the state should examine this possibility.

Representative Tilley responded that the General Assembly passed 2009 RS HB 372 which limited the early release of and street time sen-

tence credit for violent offenders and sex offenders. He said that reentry programs are needed to improve the chances of persons not reoffending after release. Ms. Prior commented that many of the crimes and a large number of violent crimes are being committed by gangs and that gangs are an increasing problem in the state. She said that more people are serving more time because there is more crime, that grand juries feel that people are getting off too easily, and that studies indicate that the taxpayers will pay more to keep criminals in prison for public safety, and that most of the defendants plead guilty after plea bargains.

The next speaker was Ginger Massamore, Regional Director for the Department of Public Advocacy. She indicated that her region includes not only the counties and their criminal courts, but Eddyville Penitentiary and Western State Hospital, and that they handle 6,600 cases with 12-13 attorneys. Ms. Massamore indicated that the DPA attorneys "look at the whole client," need full-time social workers in each office to evaluate and serve clients, and want effective alternatives to incarceration with productive return of the client to society. She said that every \$1 spent on a social worker saves \$3.25, and that GED programs, after school programs for juveniles, and other programs should be available through the DPA, and that DPA should provide "one stop shopping" for their clients. Ms. Massamore indicated that juvenile clients in her area of the state are the third highest juvenile clientele in the state and that juveniles are a systematic problem, that we need to break the addiction cycle, that there is lack of education, lack of respect, and that poverty needs to be reduced. She recommended increased criminal mediation which has been used very successfully in Hopkins County. Ms. Massamore observed that Kentucky tends to become callous about numbers, but that cases and clients need to be treated on an individual basis and that one cannot incarcerate a way out of the crime problem.

Representative Tilley then announced future meetings of the Subcommittee will be in Manchester Kentucky at 1:00 PM on October 2, 10:00AM, in Louisville on October 19, which is an all-day meeting, and a final meeting to approve recommendations of the Subcommittee at 10:00 AM on November 6 in Frankfort with a meeting of the full Interim Joint Committee on Judiciary at 1:00 PM to approve the recommendations of the Subcommittee for transmission to the Legislative Research Commission.

The meeting was adjourned at approximately 3:00 PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Subcommittee on the Penal Code and Controlled Substance Act
Minutes of the 4th Meeting of the 2009 Interim Brown & Williamson Club 3rd Floor
Papa Johns Cardinal Stadium
October 19, 2009

The 4th meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Monday, October 19, 2009, at 10:00 AM, at the Brown & Williamson Club, 3rd Floor, Papa Johns Cardinal Stadium, 2800 S. Floyd Street, Louisville, KY. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gerald A. Neal, Co-Chair; Representative John Tilley, Co-Chair; Senators Ray S. Jones II, John Schickel, Dan "Malano" Seum, Katie Kratz Stine, and Robert Stivers II; Representatives Joseph M. Fischer, Darryl T. Owens, Tom Riner, and Brent Yonts.

LRC Staff: Norman W. Lawson, Jr., CSA; Ray DeBolt, Jon Grate, Joanna Decker, and Christy May.

The meeting was called to order by Representative Tilley, the roll was called, and a quorum was present. Dr. Deborah Keeling, Chair of the Justice Administration Department of the University of Louisville welcomed the subcommittee to the campus on behalf of University of Louisville President Dr. James R. Ramsey. The minutes of the June, August, and September meetings of the subcommittee were approved.

The first speaker was Kansas Representative Lance Kinzer, Chair of the Judiciary Committee of the Kansas House of Representatives, who spoke at the invitation of the subcommittee on the topic "Kansas Example-- Ways to Improve Criminal Statutes, Decrease Corrections Costs, and Reduce Recidivism While Maintaining Public Safety." Representative Kinzer explained to the subcommittee that he represents Olathe, Kansas, that he is an attorney, that he was not in the General Assembly when the first reforms were passed, but that he has maintained an interest in criminal justice matters since he was in the Judge Advocate General Corps of the United States Army and served two years as defense counsel representing prisoners at the U.S. Army Disciplinary Barracks at Fort Leavenworth, Kansas.

Representative Kinzer said that he was very interested in determining exactly what conduct justifies deprivation of liberty and that the

average Kansas citizen wants dangerous persons to face swift, sure sanctions and that the state lock the gate and throw away the key. At the same time Representative Kinzer noted "we have to recognize that we have to be smart about using limited resources." Representative Kinzer observed that for reforms to work there must be a community "buy in" and meet the fundamental consideration that the reforms are not soft on crime and do not make excuses for crime. Representative Kinzer indicated that 5,900 offenders are admitted to prison each year in Kansas and 5,800 leave prison each year. Risk assessments of those leaving prison show 24% are homeless, 60% are high risk in the area of employment, 35% have been diagnosed with substance abuse addiction, one-third are high risk in the area of drugs and alcohol, 23% are high risk in the area of family or marriage or both, and 52% are high risk in the cognitive area (attitudes and orientation).

Representative Kinzer indicated that in Kansas there are tough sentencing guidelines but that 95% of prisoners will ultimately be released. Representative Kinzer observed that "we need to rethink the mission of the Department of Corrections," because traditionally the mission of the department has been containment and that a shift in focus to risk reduction pays. Representative Kinzer commented that housing an inmate in prison in Kansas costs \$24,167 per year and that not returning the prisoner only saves \$2,000 in direct costs. Representative Kinzer observed that the objective of risk reduction is that to get offenders to stop victimizing the rest of us. He indicated that the five year return rate for offenders convicted of new crimes was 14% to 16%, that the five year return rate for offenders who violated a condition of release was about 41% to 47%, and that we need to concentrate our efforts in reducing these numbers.

Representative Kinzer indicated that the traditional focus of the Department of Corrections on containment had not worked and that one of the first things the state did was to institute a risk assessment tool to identify what problems offenders had, the risks presented by the offenders, and what could be done in the institution and after release to help the offenders avoid bad behavior and that the reflexive use of reincarceration had to be avoided. He indicated that this required the retraining of correctional personnel to identify eligibility for programs, concentrate on a resources cost reduction-benefit, and to measure the results of the programs used, not just the number of persons partici-

pating in the program. He indicated that many of these changes did not require direct legislative action.

Representative Kinzer urged establishing productive partnerships with other agencies and organizations to make programs work. He observed that job development did not work well because of the restrictions on the licensing and employment of felons, that licensing boards do not like felons, but does it make any sense to prohibit all felons from engraining in the profession or employment. One of the more successful efforts in Kansas, according to Representative Kinzer, was to use the Department of Commerce to assist in training and finding employment for felons.

Representative Kinzer cautioned that as these other programs become better funded and people wanting to build their careers tend to gravitate to these programs that security and containment did not need to be relegated to the back row. He commented that Kansas has used grant programs for communities to target recidivism by released offenders and alternatives to incarceration which set a clear goal to reduce probation revocations by 20%; provide \$4.5 million in new funding; require data-driven strategies based on best practices to reduce revocations by targeting high risk offenders; and require continued funding to be contingent upon performance. The estimated five-year savings for this program in reducing new admissions is \$80 million. Representative Kinzer indicated that the success of the entire program rests heavily on the risk assessment tool which is used to provide individual assessments of prisoners' needs.

Another study examined county by county prison admissions which found that 40% of prison admissions came from two counties and that this provided the impetus to focus programs in those counties to concentrate on risk reduction and reoffending to reduce readmissions to prison. The first major reform bill, according to Representative Kinzer, was 2003 SB 123 which provides community supervision and drug treatment to offenders with drug abuse problems in order to reserve correctional facility capacity for more serious, violent offenders. Persons in these categories, under the statute, include persons with no previous criminal history, persons with non-person felonies, persons convicted of drug offenses, and persons who may have been convicted of a person felony who a court determines are not a risk to public safety.

Representative Kinzer indicated that he was not in the legislature when the bill passed but that he still

has some reservations about using the program for persons who commit felonies against persons, but that the program has been a success; it has reduced the number of persons going to prison and in 2008 freed up 405 prison beds; that the program is supported by the General Assembly; that in 2009 the length of time a person could spend in the alternative program was increased from 12 months to 18 months to improve the impact of the programs; and that while the programs cost \$31 million that \$7.4 million was saved over the cost of incarceration.

Representative Kinzer indicated that in 2007 the General Assembly passed SB 14, which he voted against, which established funding to expand or create risk reduction efforts in community corrections, created incentives for inmates with selected offenses to participate in selected programs and treatment interventions target toward risk, and increased the good time rate from 15% to 20% for inmates convicted of certain drug related and other crimes. He indicated that through August 18, 2008 108 inmates had been admitted with a SB 14, offense, 2 inmates had been released from prison, 60% of inmates admitted with a SB 14 offense were eligible for program credit, but that it is too early to determine the long-term impact of the bill. Representative Kinzer commented that he voted against the bill because of the increase in good time credit but that the Commissioner of Corrections indicated that good time credit was essential to the program.

Representative Kinzer then described the provisions of 2008 SB 2707 which authorizes a court to place persons sentenced to prison on a third or subsequent felony theft, burglary, or drug violation in a Department of Corrections intensive substance abuse treatment program for at least four months; permits the court to sentence the person to a non-prison alternative sentence; authorizes the court to retain jurisdiction until the person completes intensive substance abuse programs; and exempts persons committing crimes with extreme sexual violence from the program. He described the provisions of 2009 HB 2060, which provides for the Department of Corrections to transfer persons with a third or subsequent felony drug conviction to an intensive substance abuse treatment program at a facility designated by the Secretary of Corrections. He indicated that the General Assembly has not yet funded this program.

Representative Kinzer then stated that they would know if they are doing a good job if the percentage of offenders returning to prison

declines because they were better prepared to enter the community with a real job, safe housing, relapse prevention plans, and received active parole supervision targeted at their specific needs and risks; jail days expressed as a ratio to the parole population will decline because they will not be required; and the number of persons committing new crimes will decline. To date in Kansas, Representative Kinzer noted, there has been a 35% reduction in convictions and that the state is focusing on solutions that work. He cautioned that solutions that work in Kansas may not work in Kentucky. Senator Katie Stine observed that the "costs avoided" chart did not look at recidivism rates but focused on treatment and asked for the LSIR (risk assessment instrument) scores for death row inmates, to which Representative Kinzer replied that he did not know the specific figures for death row inmates but would ask the Department of Corrections. Senator Stine then asked if giving funds to local agencies was more efficacious than having the state provide the programs, to which Representative Kinzer replied, yes.

Representative Owens noted that the information provided did not include prisoners with mental illness but that in Kentucky mental illness is a significant problem with persons committing crimes and that persons with untreated mental health problems were more likely to reoffend.

The next speakers were Adam Gelb and Jake Horowitz from the PEW Center for the States, Public Safety Performance Project who spoke at the invitation of the committee. Mr. Gelb described the Pew Charitable Trusts as "a public charity with over five decades of experience of making successful social investments that return results," and that the PEW Center for the States "develops rigorous research and strategic campaigns to help states identify and advance fiscally-sound policies, provide a return on investment to taxpayers and help our nation to tackle its toughest policy questions." He described the mission of the Public Safety Performance Project is to "help states get a better return on their investment in public safety." Mr. Gelb indicated that the key messages of the project are that "state policy choices are largely responsible for prison growth (not crime, other factors) and that admissions together with length of stay are the key factors in prison problems not the crime rate." He observed that some states are firmly taking control of their fates and that the Public Safety Performance Project works closely with state task forces to analyze state prison population and cost drivers and to develop tailored policy options.

The next speaker was Jake Horowitz of the PEW Public Safety Performance Project who presented information on the national picture of prison population and "how Kentucky stacks up." Mr. Horowitz indicated that his organization has not made a thorough analysis yet of Kentucky's prison population but has used publicly available national and state information to find: from 1987 to 2007 prison population has tripled; that probation and parole are growing faster and double the incarceration rates and currently stand at 32% nationally and 38% in Kentucky; that nationally in 2007 69% of persons were on probation and parole and 31% in prison and jail; that Kentucky is at about the national average for persons under control; that persons returned to prison for violation of probation and parole in Kentucky is two times the national average; that correctional costs in the United States are about \$50 billion and are the second fastest growing part of state budgets; that nine out of ten correctional dollars goes to prisons while only one out of ten dollars goes to probation and parole.

Mr. Horowitz observed that we now know what works including: risk assessment tools; support of alternatives; managing for results (did you reduce recidivism); operating efficiencies; recidivism reduction strategies; sentencing and release options; good supervision; and that the result of the programs is less crime for less money. He observed that in Kentucky 1 in 35 persons is under correctional control while in Texas, this is 1 in 22; New York 1 in 53; Kansas 1 in 53; North Dakota 1 in 63; and Maine 1 in 8, and that in Kentucky persons on probation and parole Kentucky is 1 in 57 (28th); adults behind bars 1 in 92 (16th); and total adults under correctional supervision 1 in 35 (26th). Mr. Horowitz then described the percentage of change from 1997 to 2007 for incarceration for the United States and for Kentucky as total 31.5% (34.6%) for the United States, and 81.7% (53.5%) for Kentucky; % of new crime as 78.0% (90.1%) for the United States, and 76.5% (79.7%) for Kentucky; % violation 22.% (9.9%) for the United States, and 23.5% (20.3%) for Kentucky; and % 50 years + as 6.4% (12.7%) for the United States, and 7.5% (11.3%) for Kentucky.

Mr. Horowitz further compared the nature of offenses for the United States and Kentucky as 25.5% (47.4%) for the United States, and 20.6% (50.7%) for Kentucky; % property as 25.9% (20.3%) for the United States, and 32.3% (26.9%) for Kentucky; % Drug 30.9% (21.6%) for the United States, and 34.4% (16.2%) for Kentucky; and % public order at

13.6% (5.1%) for the United States, and 11.7% (6.0%) for Kentucky.

Mr. Gelb then presented information on the changing landscape in correctional policy as including: advances in science of behavioral change, and supervision technology as including: cognitive-behavioral treatment, motivational interviewing, third generation risk assessment tools, and accurate, on-site, rapid-result drug screens, GPS, and alcohol monitoring; public attention elsewhere and supportive of alternatives including: crime and drugs are low on public radar amidst economy, health care, wars and that polls regularly show 70% support for alternatives to incarceration for nonviolent offenders; the trend toward managing for results resulting in shift in focus from inputs/outputs to outcomes across government; fiscal crisis with increases in prison spending and five states spending more on corrections than higher education; and diminishing returns on public safety resulting in a growing recognition that we cannot "build our way out."

Mr. Gelb indicated that nationally from 1997 to 2007 the incarceration rate increased by 14% while the crime rate reduced by 24%, while in Maryland a 2% reduction in the incarceration rate resulted in a 20% reduction in the crime rate, in New Jersey a 12% reduction in the incarceration rate resulted in a 37% reduction in the crime rate and in New York a 15% reduction in the incarceration rate resulted in a 39% reduction in the crime rate when combined with effective strategies and interventions.

Mr. Gelb indicated that the three primary strategies that manage costs and maintain safety include operating efficiencies, recidivism reduction strategies, and sentencing and release options which when combined equal justice reinvestment. He described operating efficiencies as holding positions vacant, furloughing employees, maintaining full staffing to reduce overtime, reducing medical/dental and food services, closing facilities and consolidating staff (or delay opening facilities), closing towers and adding to perimeter controls, developing partners to cut medical costs, and drug testing to reduce workman's compensation costs.

Mr. Gelb indicated that five recidivism reduction strategies have strengthened community corrections including: 1) Evidence-based practices which require a timetable to achieve specified results; 2) Earned compliance credits to move the concept of earned time (behind the walls now) to community supervision such as 15 days off per month for success; 3) Administrative sanctions which boost the swiftness and certainty of sanctions by providing more au-

thority to supervising agencies and de-emphasize reincarceration; 4) Performance incentive funding which creates fiscal incentives for agencies to reduce recidivism/revocation of supervision violators (keeping 45% of prison savings); and 5) Performance management which requires tracking/public reporting of recidivism, employment, drug test positive, and victim restitution collection rates.

Mr. Gelb then described sentencing and release options which include: 1) Redefining criminal offenses such as Alabama raising the Class C felony threshold from \$250 to \$500, the Class B felony threshold to \$2,500 with a projected savings of 3,000 prison beds in 5 years, Ohio raising the felony threshold from \$500 to \$730 projected to save over \$1.25 million annually, and Massachusetts reducing possession of one ounce or less of marijuana to a civil infraction carrying a \$100 fine; 2) Reclassifying criminal offenses such as Colorado downgrading possession of less than a gram of Schedule I or II drugs and reducing repeat offenses, Iowa downgrading burglary offenses involving cars and boats to new Class D felony and aggravated misdemeanor, Illinois streamlining and reorganizing the criminal and corrections law, and Arkansas reducing penalty for possession and use of drug paraphernalia from Class C felony to Class A misdemeanor; 3) Changing sentence lengths including Pennsylvania granting judges the option to sentence offenders to an early "risk reduction" release date conditioned on successful program completion, Kansas broadening the ranges for community corrections under sentencing guidelines and reducing the length of community supervision for low level offenders, and Washington implementing a special drug sentencing grid with prison cost savings deposited into a criminal justice treatment account; 4) Expanding community corrections including Arizona providing incentive for probation departments to reduce recidivism and technical violation rates by awarding successful counties a percentage of resultant cost savings, Kansas creating a grant program awarding funds to counties with plans set and achieve revocations by 20%, and Illinois creating mental health court programs including graduated sanctions, drug testing, and vocational testing; and 5) Establishing sentencing information systems and guidelines including North Carolina developing a robust sentencing commission, prison population projection capacity, and offender information system, Missouri developing an automated web-based program to calculate a recommended sentence based on charged

offense and criminal history, and Illinois implementing a sentencing policy advisory committee charged with examining sentencing policies, collecting and analyzing data, and examining the effect of new penalty enhancements.

Mr. Gelb further indicated that money is beginning to be made available to the states for prisoner reentry programs under the Second Chance Act, that in making correctional changes that mid-level management is frequently the "permafrost layer" and does not want to implement the changes or attempt to make change work, and that states should spend money on things that work, rewarding success and that rewards also work better with prisoners than punishment such as pay restitution, get time off supervision credit, that fewer programs are needed for low risk offenders, incentivizing low risk behavior is needed, and that reporting of key outcomes is essential.

Mr. Gelb indicated that Kansas faced a 22% prison growth by 2016 with a projected \$500 million in additional costs. Studies indicated that 65% of admissions were probation and parole violations; that the solution was grants to community corrections programs to reduce revocations by 20% and a 60-day credit for risk reduction programs and restoration of earned time for non-violent inmates, the result was parole revocations are down by 46% parole convictions are down by 26%, parole revocations are down by 28% and that \$80 million in costs will be averted in 5 years. In Texas, Mr. Gelb indicated, the problem as Texas added 100,000 beds in the past 20 years and still faced a bed shortfall of 14,000-17,000 beds by 2012 with \$523 million in additional costs for FY 09, the analysis showed a high recidivism rate together with a low parole grant rate with technical violations as a primary driver, the solutions were to expand the network or residential, community corrections diversion/treatment facilities for \$241 million and requiring compliance with state parole rate law, with the outcome being probation revocations down by 26% parole revocations were down 4%, the actual savings in FY 08/09 was \$512 million with an estimated savings of \$1 billion through FY 12 which resulted in the legislature continuing a \$120 million annual reinvestment in community corrections.

Senator Neal observed that Mr. Gelb and Mr. Horowitz's testimony confirms what we have been looking at and how we address problems with targeted strategies versus comprehensive programs. Mr. Gelb responded that no one has used a comprehensive approach since the

1990's and urged that we do not wait, do things now, identify specific drivers, and look at other states' reforms.

The next speaker was Ms. Amy Mischler who cited her own situation involving a divorce, child support problems and the actions of a local prosecutor, and who complained that prosecutors have no real control mechanism, that there is no place to complain about a prosecutor's conduct. She observed that the Prosecutors Advisory Council at the Attorney General's office fails to exercise any control over prosecutor conduct and that political retaliation by prosecutors was involved in her situation. Ms. Mischler urged that the General Assembly provide a means for discipline of prosecutors.

The next speaker was Mr. James Fowler who indicated that he had been sentenced to prison because of a wrongful conviction and that he is still attempting to clear his name. Mr. Fowler indicated that many prisoners have no family, no money, and no education and that the only education which they receive in prison is how to commit crime classes, how to testify falsely, and other negative education which only turns out better criminals. Mr. Fowler urged that prisoners be incarcerated near their families and not 500 miles away; that the state is in need of second chance centers avoid incarceration; for the state to aid prisoners in reintegrating into society and to address prisoner drug problems. He asserted that 90% of prisoners have drug problems and that there is little treatment for these problems. Mr. Fowler also observed that in Canada, felony records are sealed, and that sealing of records makes it easier for ex-convicts to obtain employment and licensing.

The next speaker was Mr. Charles Zoeller who described a situation in which his son had been incarcerated, came to the Lord while in prison, and urged that prisoners are in need of hope, not incarceration. Mr. Zoeller complained that his son was released with an ankle bracelet costing \$150 per month which caused financial hardship for the entire family; that the son has had a hard time gaining employment and now has child support problems. Mr. Zoeller indicated that he was previously a corrections officer in Florida and had intimate knowledge of the problems of the prison system. Mr. Zoeller commented that persons are in jail in Louisville because they could not pay civil fines from government agencies, that this is wrong because people cannot pay the fines in the first place and then lose their jobs while in jail. Mr. Zoeller then commented that prosecutors threaten people with jail for nonpayment of fines.

The meeting was adjourned at approximately 2:00 PM.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY Minutes of the 3rd Meeting of the 2009 Interim September 15, 2009

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Tuesday, September 15, 2009, at 3:15 PM, in Room A of the Conference Center at Kentucky Dam Village State Resort Park. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, and Jerry P. Rhoads; Representatives Will Coursey, C. B. Embry Jr., Bill Farmer, Richard Henderson, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Mary Lou Marzian, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Commissioner Dwight Lovan, Department of Workers' Claims; Secretary Helen Mountjoy, Education and Workforce Development Cabinet; Carol Roberts.

LRC Staff: Linda Bussell, Carla Montgomery and Betsy Bailey.

Chair Kerr thanked guests and committee members for attending the meeting at Kentucky Dam Village State Resort Park. She recognized former Representative and current Labor Cabinet Secretary, J.R. Gray who welcomed those in attendance to western Kentucky. He spoke briefly on his history with the Labor and Industry committee, of which he was chair for several years. Chair Kerr recognized several specific guests in the audience and thanked the Labor Cabinet for organizing the committee meeting and Labor Management Conference. She introduced Commissioner Dwight Lovan, Department of Workers' Claims, to present an update on the feasibility study on the adoption of the 6th edition of the American Medical Association's (AMA) "Guides to the Evaluation of Permanent Impairment."

Commissioner Lovan presented his findings based on discussions with individuals within the medical, legal, business, and labor communities. Twelve states have adopted the 6th edition of the AMA Guides to medical impairment. Commissioner Lovan stated that he has been in contact with the advisory council on workers' compensation in Tennessee and is utilizing Tennessee's experience with the new edition. Tennessee adopted the 6th edition on January 1, 2008. Few states are still studying the adoptability of the 6th edition. Most states have either ad-

opted it or continue to use the 5th or other editions. Colorado uses the 3rd edition and Texas uses the 4th edition. Commissioner Lovan has used information published in the journal of the International Association of Accident Boards and Commissions which has conducted a study on the accuracy of different interpretations of the editions amongst physicians. He continues to communicate with employers, labor representatives, attorneys, and physicians who are dealing with the issue. Case analysis has been presented on the occurrence of patients in Kentucky, particularly Bowling Green, Owensboro and Paducah, who travel to Tennessee for medical treatment. Doctors in these cases are able to provide insight into the differences between the 5th and 6th editions. It has been reported that processing with the 6th edition can take 4 to 5 times longer than with the 5th.

Chair Kerr asked how many doctors in Kentucky have been trained to use the 6th edition of the AMA Guides. Commissioner Lovan said a training session was held in February 2008 with approximately 75 people in attendance and 35 of those in attendance being physicians. A physician would need nearly 40 hours of training to practice the methodology of the 6th edition. Chair Kerr asked why the methodology or process of the 6th edition takes longer than other editions. Commissioner Lovan said the evaluation process is dramatically different than in previous editions and it takes a longer time to complete. The extended time it takes for completion of an evaluation may have to do with the learning curve and experience of the physician with the new process, but it also has to do with the thoroughness of the examination of the patient.

Representative Yonts asked if Commissioner Lovan anticipates presenting a recommendation to the legislature in January. He responded yes and did not plan to promulgate a regulation on this issue.

Senator Carroll asked why the methodology of the 6th edition varies so drastically from the other editions and what economic impact the adoption would have. Commissioner Lovan said according to the 6th edition the primary reason for the change is that the 6th edition methodology is based on how an international health organization determines disability. In prior editions, disability is a legal determination and impairment is a medical determination. The 6th edition combines disability and impairment and considers how each affects work performance and daily living. There are multiple economic impacts with the 6th edition, but the full extent of the impact is not known.

Some of the controversy seems to relate to the changes to impairment ratings for certain body parts such as the spine. These changes may result in a significant reduction of disability of impairment ratings in that area. Commissioner Lovan stated that his report submitted to the legislature in January 2009 does have physicians' analysis and comparison of the disability ratings using the 5th versus the 6th. This analysis is an attempt to show the real dollar impact. Senator Carroll asked if the workers' compensation trust fund has been affected by the effort to balance state budgets. Commissioner Lovan replied yes.

Senator Rhoads asked how using the 6th edition would affect the real dollar and multiplier formulas. Commissioner Lovan used the example of a cervical spine fusion as having the most dramatic impact, where a 25% impairment rate and a 1.51 multiplier would result in a 28.75% disability rating using the 5th edition. Under the 6th edition, a cervical spine fusion would rate 4% to 7% in impairment ratings. An impairment rating of 4% with a 1.65 multiplier would result in a 2.85% disability rating. There is a 25% difference between the 5th and 6th edition for cervical spine fusion.

Senator Rhoads asked if physicians would be reluctant to train for use of the 6th edition after the AMA recently incorporated numerous corrections. Commissioner Lovan said a recent study suggested that 50% to 60% of current physicians performing evaluations for injured workers will not want to do exams under the 6th edition.

Representative Yonts asked if physicians will be required to perform the expensive Functional Capacity Evaluation (FCE) under the 6th edition. Commissioner Lovan stated that while the FCE is not required, many physicians may choose to do the evaluation to feel comfortable to support their findings of impairment.

Chair Kerr asked that the rationale be explained for the changes in the determination of cervical/lumbar impairments. Commissioner Lovan stated that a medical difference of opinion between the authors of those sections of the 5th and 6th editions is the cause for the changes.

A motion and second were made on the minutes of the previous meeting and the minutes were approved. Chair Kerr introduced Secretary Helen Mountjoy, Education and Workforce Development Cabinet, and Chair of the Unemployment Insurance (UI) Task Force.

Secretary Mountjoy addressed the committee with an update on the work of the Unemployment In-

surance Task Force. The unemployment rate for the month of July in Kentucky was 11%, the highest rating in 25 years. In Kentucky, 227,431 people are unemployed. She stated that Magoffin County has the highest rate of unemployment at 19.6%. In the month of August, \$87 million was paid in regular unemployment insurance benefits. She stated that the average amount of employer contributions for the year is \$400 million. Including regular benefits, EUC and FAC funds which are federally funded, and the extended benefits, Kentucky has paid \$1,040,617,326 in UI benefits, year to date. Kentucky currently owes the federal government \$383,500,000. \$300,000,000 has been requested for the final three months of federal funding, which expires December 31, 2009.

The task force anticipates making recommendations to Governor Beshear at the end of October 2009. Recommendations from the consultants under contract to the task force will be made by September 30. Small groups have branched off from the task force to study specific issues more in depth. One such issue being studied is a waiting week which could save \$40 million per year. Secretary Mountjoy emphasized the goal of reemployment and the establishment of a system that is easily understood by employees. The task force is studying a program titled "Georgia Works" which places unemployed citizens in jobs with private businesses who hire them for part time employment for 24 hours per week for a period of eight weeks. The program has maintained a 66% hiring rate of participants during the five years of the program.

The task force has concluded that savings would not be effective in reevaluating the contributions of voluntary contributors. There are approximately 85,000 employers in Kentucky. In 2009, 202 employers used voluntary contributions to lower their tax rate. Only 12 voluntary contributing employers had a buy down of over \$30,000 while five employers were above \$100,000. The loss to the trust fund results in \$40,000,000 which is only 1%.

In the area of reimbursing employers, the task force has concluded that reevaluating this section of the system would not result in significant savings. There are 1,918 reimbursing employers which includes governmental entities (75%), private schools and colleges, and health care and social services organizations (25%). The benefits that were charged against reimbursing employers in 2008 amounted to 1.5% of the total benefits paid for the year. Federal statute obligates Kentucky to offer the option of being a reimbursing

employer.

On October 13, the task force will hold its next meeting. A small group meeting on employer rating will be held on October 23.

Representative Farmer asked if the requested funds for the remaining months of the year will sustain the current level of benefits. Secretary Mountjoy said the amount requested should be sufficient according to analysis and the formula used to determine the required funds. If the amount should be insufficient, additional funds can be requested.

Secretary Mountjoy explained that the taxable wage base was instituted in 1982 when \$8,000 represented 50% of the average annual wage in Kentucky. Now it averages only 25%. Several other states have raised their taxable wage base.

Representative Yonts asked about the continuing eligibility requirements and audits that may be performed. Secretary Mountjoy explained that a person must continue to present evidence to their caseworker in order to continue receiving benefits. Other states have been successful in instituting random audits that people are in fact seeking work. She said that this method will most likely be included in recommendations.

Representative Yonts asked about recommendations to increase the taxable wage base. Secretary Mountjoy said the task force is waiting for the recommendations from the consultants under contract. It is anticipated that the consultants' recommendations will allow that the taxable wage base should be indexed.

Representative Yonts asked about UI modernization provisions of the federal stimulus bill. One consultant is looking specifically at the elements contained in the stimulus modernization package to see what it would cost Kentucky in the short term and long term.

Representative Hoffman asked how the task force would address the issue of misclassification of employees preventing payment of taxes to the UI system. Secretary Mountjoy said the task force will be addressing issues on a long list in order to clear up any issues of ambiguity and unfairness.

Senator Kerr emphasized the importance remembering the nearly 228,000 Kentuckians that are currently unemployed. She thanked Secretary Mountjoy for her presentation and hard work as the Chair of the Unemployment Insurance Task Force.

Carol Roberts, a workers' compensation claimant from Owensboro, spoke to the committee about issues within the Workers' Compensation

system. Ms. Roberts informed the committee about the complications and difficulties that she has encountered while litigating reopenings and medical fee disputes. Ms. Roberts discussed post award issues such as being denied medical treatment to which claimants may be entitled to according to the original award and the inability to find legal representation for post award claims. Ms. Roberts suggests that a system should be reviewed to help post award claimants receive proper legal representation for post award matters.

There being no further business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

**Minutes of the 4th Meeting
of the 2009 Interim
September 11, 2009**

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, September 11, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, Julie Denton, Carroll Gibson, Denise Harper Angel, John Schickel, Dan "Malano" Seum, Kathy W. Stein, and Damon Thayer; Representatives Larry Clark, Ron Crimm, Tim Firkins, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Reginald Meeks, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, and Ron Weston.

Guests: Representative Jimmy Higdon; Dennis Hagan, Pedorthist; Richard Moloney, Commissioner, Department of Housing, Buildings and Construction; Gregg Rogers, J. Ronald Pryor, Elevator Industry Work Preservation Fund; Tom Underwood, D.C. Elevator.

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

Minutes of the August 11, 2009, were approved as submitted without dissent.

First on the agenda Representative Jimmy Higdon and Dennis Hagan, Pedorthist, spoke to committee members about licensure of pedorthists. Representative Higdon told the committee that all interested parties were working toward a compromise for licensure. Representative Higdon said that he has not been contacted by constituents regarding the need for licensure and

was unaware of fraud in the industry. He said his proposed legislation was identical to legislation currently being considered in Pennsylvania and is similar to the proposal that was presented to the committee during the July meeting.

Dennis Hagan told committee members that the main difference between this bill and bill proposed in July is the educational requirements and the establishment of a board. Mr. Hagan said he was opposed to education requirements being written into the actual practice act. He said this had been done in Ohio, and the board for pedorthists was powerless to make changes without going to their General Assembly. Mr. Hagan said that no piece of legislation could protect a patient, adding that responsibility would always be with the individual practitioner. He said that Florida, which has one of the strictest practice acts, recently uncovered \$122 million in prosthetic fraud. He felt that this was because Medicare and Medicaid ties durable medical equipment in with prosthetics and orthotics. Mr. Hagan added that funds would be limited to provide oversight of the licensees in Kentucky. He also said it would be hard to support a national education program.

Mike Veeder, retail pedorthists, told committee members that he has offices in Ohio and in Kentucky. He said that his experience in Ohio was that, "less is better." He said that the scope of practice in Ohio is very limiting for pedorthists. He said both the National Organization for Competency Assessment (NOCA) and the National Commission for Certifying Agencies (NCCA) have expanded the scope of practice for pedorthists, but Ohio law does not permit treatment above the ankle. He felt this limits what the practitioner can do for patients and harms patient care. Mr. Veeder said that the significant difference in the two proposed bills in Kentucky is the credentialing bodies. Representative Keene asked if Ohio is currently trying to repeal their pedorthic laws. Mr. Veeder said he would have to petition the board to change the law.

Rob Burnett, retail pedorthists, said his practice deals with the general public. He said people have a hard time finding quality practitioners and felt that the legislation proposed in July would limit the number of practitioners in the state of Kentucky. He said Representative Higdon's bill would allow existing practitioners to continue working and promote the profession.

Senator Harper-Angel asked if there was a grandfather clause that would cover current practitioners. Representative Higdon replied, yes.

Representative Higdon said that the two groups with legislation were arranging meetings to work together to come to a compromise.

Senator Gibson asked if the fraud in Florida was Medicare only and what the qualifications are to practice pedorthics. Mr. Hagan said yes, the fraud in Florida was limited to Medicare and Medicaid. Mr. Hagan responded that the qualifications were determined by the credentialing bodies located in Washington D.C. He further stated that without certification from one of the national boards the practitioner will not be reimbursed by Medicare or Medicaid. Representative Koenig asked for more details regarding the fraud in Florida. Mr. Hagan responded that he did not have the article, which was printed in a national association publication, with him. He offered to mail Representative Koenig that article.

Representative Koenig asked what the minimum education standards should be for pedorthists in Kentucky. Mr. Hagan responded that those requirements are set out by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) and the Board for Certification/Accreditation International (BOC). Mr. Hagan added that requirements for certification by either of these boards by the year 2013 are a bachelors degree.

Senator Seum asked if prosthetists, orthotists and pedorthists practice together and if they are certified by the same board. Mr. Hagan said his practice deals with footwear; however, prosthetists deal with artificial limbs and orthotists deal with braces and splints. Representative Higdon said it is a complicated issue.

Charles Britt, an amputee and prosthetic user speaking on behalf of himself, told committee members that he wanted to encourage them to look at the ABC and the BOC to use as a guideline. He said currently there was no way for a patient to know who they should consult to be fitted for devices. He told members that he held a real estate license and a nursing license and did not fear licensure for prosthetists, orthotists and pedorthists.

Representative Clark asked Mr. Britt how he located his prosthetists. Mr. Britt responded that his surgeon gave him a list of practitioners for him to choose from.

Bob Williams, another amputee and prosthetic user speaking on behalf of himself, told committee members he is a service connected veteran who lost his leg in war-time service. He said after surgery his surgeon released him with no recommendation for limb replacement. He said the Veterans Association provided him

with a list of contract prosthetists. He said he is in favor of licensure and requiring continuing education to maintain that license for this field.

Next on the agenda, Ronald Pryor, Capital Solutions, LLC and Gregg Rogers, National Coordinator for the elevator industry, representing the Elevator Industry Work Preservation Fund gave an overview of elevator safety. Mr. Pryor stated that while Kentucky requires licensure for barbers, auctioneers, plumbers and many other occupations, it is in the minority of states that do not require those who work on and install elevators to be licensed. He said that the Department of Housing, Buildings and Construction inspects commercial elevators, but freight elevators are not inspected at all after the initial inspection when they are installed. Mr. Pryor said legislation for licensure is an issue of safety. He said a new board would not be necessary; however, like other professions there should be an advisory committee. Mr. Rogers stated that he was a licensed elevator mechanic with 35 years of experience in the elevator industry. He said that elevator safety legislation was important to implement minimum standards for people who work on conveyances. He said that, based on a report issued by the Center to Protect Workers' Rights, there are approximated 30 people killed and more than 17,000 injured each year while at work on or around conveyances. He said that the state should implement a law to inspect freight elevators routinely after inspection as well as imposing minimum standards for licensure of installers and inspectors. Mr. Rogers said this would help prevent future accidents and fatalities.

Senator Tapp asked if there would be any elevators exempt in proposed legislation. Mr. Pryor said there are discussions ongoing regarding exemptions for the distilling industry. Representative Simpson asked if regulation of elevators was a trend nationally. Mr. Rogers said that since 2000 legislation has been passed in 17 states and that currently only four states have no regulations governing elevators. Representative Simpson asked what the fee schedule would be for the industry. Mr. Pryor said that typically the mechanic license fee is \$100 annually and for a contractor the license fee is four times the amount of the mechanic.

Tom Underwood, representing D. C. Elevator, an independent elevator contractor in Kentucky, said he and a group of independent elevator companies have been in discussions with Mr. Pryor and Mr. Rogers to come to a compromise on legislation for licensure of elevator mechanics and installers. He said his group is in

favor of continuing education and licensure. Mr. Underwood said he was confident that there would be one bill that all parties were in agreement with for the 2010 legislative session. Mr. Underwood thanked Commissioner Moloney for facilitating the groups meetings.

Representative Clark asked about differences the two groups were discussing. Mr. Underwood said that one difference was the makeup of the Elevator Advisory Committee. He said that another area was the continuing education and which body; the National Elevator Industry Educational Program, or the National Association of Elevator Contractors, would credential installers and inspectors. Mr. Underwood said that both programs were approved by the Department of Labor. Representative Clark responded that the legislators should decide which body would provide the continuing education. Mr. Underwood stated that another point of discussion was the number of months of experience required for a mechanical elevator contractor's license as well as reciprocity with other states. Mr. Pryor stated that if Kentucky is going to be reciprocal they should have the same requirements as contiguous states. Representative Clark said the program should offer portability and job opportunities. Senator Stein asked if the freight elevator in the Annex had been inspected since it had been installed. Gregg Rogers responded that by state regulation it is not required; however, he could not answer positively that it had not been inspected since installation. Mr. Pryor said that is the potential, although the state may require inspection of state office buildings. Representative Meeks asked how many elevators inspectors are employed and how many elevators existed currently in the state. Commissioner Moloney said there are 10 inspectors for the state, and said there are thousands of conveyances. Mr. Pryor said that during a previous meeting among interested parties an elevator inspector noted that about 10,000 elevators are required to be inspected annually. Mr. Rogers said that there are a minimum of 5,000 freight elevators that are not inspected. Representative Owens asked if there would be minimum training for inspectors. Mr. Pryor said that the American Society of Mechanical Engineers has a qualification called Qualified Elevator Inspector that the proposal would require that all inspectors meet.

There being no further business to come before the committee the meeting was adjourned at 11:00 a.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 4th Meeting of the 2009 Interim September 24, 2009

The fourth meeting of the Interim Joint Committee on Local Government was held on Thursday, September 24, 2009, at 10:00 AM, in Ballroom A of the Northern Kentucky Convention Center in Covington, Kentucky. 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, John Schickel, and Robin L. Webb; Representatives Scott W. Brinkman, Ron Crimm, Mike Denham, Ted Edmonds, Richard Henderson, Charlie Hoffman, Brent Housman, Dennis Keene, Adam Koenig, Tom McKee, Arnold Simpson, Kevin Sinnette, and Ken Upchurch.

Guests: Representatives Mike Cherry, Dennis Horlander, and Jim DeCesare; Mayor Mike Miller, City of Jackson; Mayor Pro Tem Jerry Stricker, City of Covington; Mayor Elaine Walker, City of Bowling Green; Terry Baute, City of Bellevue; Neil Hackworth, Temple Juett, and J. D. Chaney, Joe Ewalt, Bill Hamilton, Robin Cooper, Tony Goetz, and Bert May, Kentucky League of Cities; Dawn Bellis, Department of Housing, Buildings, and Construction; Debbie Battliner, City of Simpsonville; Mayor Jerry Abramson and Ron Wolf, Louisville Metro Government; Mayor Gippy Graham and Kathy Carter, City of Frankfort; Gale Cherry, City of Princeton; Mayor Fred Siegleman, City of Versailles; Mayor Susan Barto, City of Lyndon; Dan Voegeli and Helen Lee, City of Fulton; Claude Christensen, City of Sadieville; Bill Ed Cannon, City of Corbin; Janet Hammer and Paul Stansbury, City of Danville; Greg Engleman, City of Erlanger; Tamie Johnson, City of Mayfield; Tom Hardesty, City of Shelbyville; Dennis Crist, City of Somerset; Rita Smart, City of Richmond; Jody Anderson, City of Southgate; Mayor David Wilmoth, City of Elizabethtown; Mike Haydon, Governor's Office; Shelley Hampton, Kentucky Association of Counties; Jerry Deaton, Scenic Kentucky; and Ned Sheehy, Lexington-Fayette Urban-County Government.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Kris Shera, Matt Niehaus, and Cheryl Walters.

Upon the motion of Representative Henderson, seconded by Representative Crimm, the minutes of the August 26, 2009 meeting were approved.

Senator Thayer announced that the committee was meeting in con-

junction with the Kentucky League of Cities' annual convention.

The first order of business was review of Kentucky Administrative Regulations 815 KAR 8:041 (repeal of 815 KAR 8:040, HVAC contractor application reviews) and 815 KAR 35:100 (electrical continuing education procedure). Senator Thayer introduced Ms. Dawn Bellis, General Counsel for the Department of Housing, Buildings, and Construction, to explain the regulations.

Ms. Bellis told the committee that 815 KAR 8:041 repeals 815 KAR 8:040 because it does not conform to legislative intent. She explained that 815 KAR 35:100 adds a requirement to the agency's determination that the continuing education provider applicant will provide the certification of attendance at all courses offered within five business days of class completion by e-mail, fax, or mail. Ms. Bellis also explained that rather than the inactive license holder providing proof of completing six hours of continuing education for each year the license is inactive, the new condition to be met to reactivate the license is proof of completion of at least six hours from the prior year.

Representative Riggs asked if five days was typical to get licenses. Ms. Bellis replied yes.

Senator Carroll asked if the five days included the date when they received certification. Ms. Bellis said yes. Senator Carroll stated that the word "postmark" should be added to the language.

Representative Riggs moved, seconded by Senator Carroll, to amend 815 KAR 35:100 to add the word "postmark" after the words "or mail" on line 5, page 2. Senator Thayer pointed out that the agency must agree to the amendment before the committee votes on the motion. Ms. Bellis said she agreed to the amendment. The motion carried by voice vote.

The last order of business was presentation of the Kentucky League of Cities' (KLC) legislative platform for the upcoming 2010 Session of the General Assembly. Senator Thayer introduced Mayor Mike Miller, KLC President-elect for welcoming remarks. Mayor Miller then recognized Mr. Neil Hackworth, KLC Executive Director, to discuss the League's advocacy for home rule and protection of city interests.

Mr. Hackworth told the committee that KLC defends and promotes home rule. He said they believe that local leaders must have the freedom to govern in the best interests of their citizens. Mr. Hackworth noted that KLC opposes legislation that: (1) infringes upon local decision making, such as legislation that results

in unfunded mandates or mandated collective bargaining; (2) threatens or negatively impacts city revenues, including the centralized collection of any city revenues by the state or any proposal that would reapportion city revenues; and (3) threatens the physical growth of cities or places cities at a competitive disadvantage.

Mayor Miller next introduced Mr. Temple Juett, KLC General Counsel, to discuss County Employee Retirement System (CERS) reform. Mr. Juett told the committee that the changes from the 2008 special session and the passage of HB 117 in 2009 delivered important components of retirement reform that will provide some savings for local governments in the coming years. However, he noted that the downturn in the economy reduced returns from investments, with a likely result of higher demands on employers to make up the difference. Mr. Juett also noted that the impact of the recession on employer costs won't be known until the Kentucky Retirement Systems (KRS) Board of Trustees completes an actuarial analysis and announces next fiscal year's employer contribution rates in November, 2009.

Mr. Juett stated that without additional reforms to the system, cities will take a major financial hit from sharply higher contribution rates. He explained that rates are currently projected to be over 20% of payroll (non-hazardous) and 42% (hazardous) by FY 2014, which will be almost double of the rates in FY 2006. Mr. Juett said Kentucky's cities are in need of lasting changes that will make employer contribution rates more affordable in the short term.

Mr. Juett stated that cities will seek legislation that would define "full funding" for future health benefits as 80% of the actuarially required contribution. The pension portion of the retirement benefit would continue to be funded at 100% of the actuarially required contribution. He noted that according to the January, 2008 "State and Local Government Retiree Benefits" report by the United States Government Accountability Office (GAO), "many experts consider a funded ratio of about 80% or better to be sound for government pensions."

Mr. Juett told the committee that KLC will also pursue changes in governance that would allow for a separate board of trustees to administer the CERS within the KRS. This new board of trustees would be made up of a balanced mixture of employer and employee representatives who would adequately represent local government interests in CERS.

Regarding training for newly elected officials to serve on boards, Representative Crimm suggested that

KLC report back to the committee to show that this has taken place. Mr. Hackworth stated that they would be happy to report back to the committee.

Representative Crimm asked if KLC insurance board has to report back to the main board. Mr. Hackworth said the insurance board has to present a report. Representative Crimm commented that KLC should make sure there is a watch dog.

Representative Riggs asked what the makeup of the current CERS board was. Mr. Juett said there are two CERS members on the 9-member board and one from state police. Representative Riggs asked staff to find out what the total membership of the board is.

Regarding the 80% funding for health benefits, Representative Koenig asked if that could be adjusted up. Mr. Juett replied yes.

Senator Webb commented that she didn't think it would be necessary to create a new board but to just tweak the present one.

Senator Carroll commented that retirement is a problem, but the biggest problem for cities is revenue. He said cities cannot match revenue so they need 100% from the state.

Senator Carroll asked if wellness programs had been considered considering the costs of health insurance. Mr. Juett replied that KLC is focusing on wellness programs.

Representative Housman asked how the \$40 million premium compares to the payment of claims. Mr. Juett said \$3 million was added surplus last year.

Mayor Miller next recognized Mayor Elaine Walker, KLC second vice president, to discuss the telecommunication tax shortfall and 911 funding. Mayor Walker told the committee that much like the state, the decline in the economy and cost of providing adequate services for citizens has been extremely hard on city budgets. For cities, she noted that this problem has been further exasperated by a shortfall in telecommunications tax revenues.

Mayor Walker stated that in 2005, the General Assembly passed a telecommunications tax to replace local franchise fees on cable and telephone companies and public service property taxes. She pointed out that KLC and its member cities supported this bill with the promise that city revenues would not be negatively impacted by this change and the promise that they would share in the growth fund. Mayor Walker said unfortunately, an insufficient "hold harmless" amount was written into law, causing most cities to experience a 15% shortfall compared to previous collections of local franchise fees and taxes. Furthermore, she added, the

rates have been insufficient to generate any additional money for the growth fund.

Mayor Walker stated that KLC is asking the General Assembly to: add approximately \$7.5 million to the annual hold harmless fund to accurately account for the total revenues local governments were receiving prior to the telecommunications excise tax law; consider raising the rate to generate growth fund revenue; and include \$34 million in past lost revenues in the next budget to compensate local governments for the shortfall from January, 2006 through June 30, 2010.

Mayor Walker noted that in conjunction with legislation, the KLC Board of Directors has voted to begin the process of filing a lawsuit challenging the constitutionality of the telecommunications tax law and seeking compensation for the shortfall in revenue.

Representative Henderson asked for a breakdown of the rates charged for the telecommunications tax.

Mayor Walker told the committee that local governments have the ability to assess fees for 911 services on land-based telephone lines while the state sets, collects and distributes the 911 fee for cellular phones. She explained that the decline in popularity of land line telephones has left many local governments with decreasing revenues to support the expensive 911 services. Mayor Walker added that Kentucky phone companies report that wire-line fees are dropping statewide at an average rate of 4% annually, which creates a disproportionate burden on older citizens who still utilize land lines.

Mayor Walker said this new trend has forced several cities and counties to sharply increase the fee on the remaining land lines. As a solution, she noted that KLC is working with 911 administrators, the Kentucky Association of Counties, and will seek to work with utility companies on legislation that will ensure stable and adequate funding for emergency response systems. Mayor Walker added that KLC will need the support of the legislature to find a way to update this antiquated funding source to ensure that local governments can continue to provide responsive public safety services to the state's citizens.

Representative Keene asked what percentage of 911 calls was from cell phones. Mayor Walker replied that 60% 911 calls were from cell phone.

Senator Webb stated that there should be more clarity for participating entities when regulating the 911 service.

Representative Crimm noted that he prefiled legislation for the

2010 session regarding the telecommunications shortfall.

Regarding the telecommunications shortfall, Senator Carroll asked if the loss of money to the fund is attributed to the rate set for the tax itself. Mayor Walker replied that the loss is attributed to the rate and the overall shortfall.

Mayor Miller next recognized Mr. Terry Baute, Code Enforcement Officer for the City of Bellevue, to discuss foreclosed properties and how it affects city code enforcement. Mr. Baute told the committee that foreclosure issues are not unique just to the City of Bellevue. He said this is a nationwide problem that is continuing. Mr. Baute noted that according to the most recent information and statistics, the number of foreclosed properties in the United States has reach an all time high of approximately 300,000 per month over the last several months.

Mr. Baute explained that neighborhoods, police, fire, PVAs, code enforcement officials, as well as public works and banks, are all affected by this problem. He stated that although banks have been tremendously impacted by the staggering numbers, the fact remains that it is their responsibility to maintain the property until it is either resold or auctioned off. Mr. Baute added that if there were any type of emergency involving police, fire, theft, personal injury or a property maintenance issue, the proper contact information regarding the current owner of the property is not readily available. He said unfortunately, the former property owner is caught in a web of financial trouble and relocation due to a foreclosure. Mr. Baute noted that lending institutions do not always notify the local government about foreclosure information. He also noted that this is a huge problem due to the fact that the PVA lists the previous owner, who has now moved on, and there is no way of knowing important contact information.

Mr. Baute stressed that city government and lending institutions should all work together in order help stabilize the local codes and blighted violations which occur when properties are in limbo and there is no contact information readily available. He pointed out that through a joint effort and cooperation, legislation can be drafted to help regulate contact information that will greatly assist both lending institutions and the local city government in helping control blight issues that will keep the city looking attractive as well as being a desirable place to live and work.

Mayor Miller lastly recognized Ms. Debbie Battliner, President of the Municipal Clerk's Association, to discuss protection of the city elec-

tion process. Ms. Battliner told the committee that the State Board of Elections has received several complaints in the last several years that non-city residents were able to vote in city elections and affect the outcome of races. She noted that to protect the integrity of city elections, KLC will seek legislation that would enact a onetime requirement for city clerks to provide a list of all properties within the city and a map of the city boundaries to the county clerk. Ms. Battliner added that county clerks would use the information to code voter eligibility so precinct officers can determine whether an individual is entitled to vote in a city election. She said any changes in corporate boundaries after the onetime reporting requirement would be completed under the existing annexation and de-annexation laws. Ms. Battliner explained that this KLC initiative would also eliminate the requirement for cities to provide boundary information to Department of Local Government.

Senator Thayer suggested that the Clerks' Association get going early with a bill that has an emergency clause in it. Mr. Chaney assured Senator Thayer that Senator Kerr has plans to file a bill.

Senator Thayer commented that he had heard that KLC was forming their own entity to deal with municipal utilities. Mr. Chaney replied that to his knowledge, that was not true.

Senator Thayer announced that the next meeting would be October 28th in Frankfort.

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

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT Minutes of the 3rd Meeting of the 2009 Interim September 25, 2009

The 3rd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Friday, September 25, 2009, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr., Co-Chair; Senators David E. Boswell, Bob Leeper, Dorsey Ridley, John Schickel, Brandon Smith, Katie Kratz Stine, Robert Stivers II, Gary Tapp, and Johnny Ray Turner; Representatives Hubert Collins, Tim Couch, Keith Hall, Tim Moore, Don Pasley, Kevin Sinnette, Fitz Steele, and Jim Stewart III.

Guests: Tim Hubbard, Bruce Scott, Tom Heil, and Chris Fitzpatrick, Kentucky Department for Envi-

ronmental Protection; James "Jitter" Allen, Republic Industries; Perry and Ann Sebaugh and Betty Williamson, Kentucky Woodlands Owners Association; Larry King, Sims Recycling; and Rusty Cress, Kentucky Association of Manufacturers.

Legislative Guests: Representatives Rocky Adkins and Ancel Smith.

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

Rep. Gooch announced the meeting had a quorum and asked for a motion on the August meeting minutes. After a motion and a second, the August minutes were approved. Rep. Gooch welcomed Rep. Ancel Smith, who is awaiting approval to be named as a House member to the committee and invited members of the Energy and Environment Cabinet to present testimony on e-scrap.

Tim Hubbard stated that this is an important environmental issue. Some call the material e-waste, but e-scrap is more appropriate because of the market potential and the raw materials in the product. E-scrap does contain hazardous materials such as lead and mercury and valuable materials including copper, platinum, cadmium, and precious metals. There are several ways that e-scrap is disposed of including unregulated disposal, permitted facility disposal, storage and recycling. Unregulated disposal is a big problem because of the lead and mercury leaching into the ground water. Permitted facility disposal is better but the value of the scrap material is lost. Many companies currently store the material but this is a problem because of space limitations. Recycling is where the nation needs to go because it resolves the environmental problems and promotes recovery of the valuable materials.

The U.S. Environmental Protection Agency reports that 2 percent of the US waste stream may be e-scrap. There are 5.1 million tons of waste and 100 thousand tons available for e-scrap recycling. The cabinet needs more data regarding e-scrap waste collection and recycling in order for it to make better policies regarding e-scrap. Small quantity generators are exempt from regulated disposal and not all recyclers are registered. One good note is that the flood of televisions anticipated after digital conversion has not materialized.

There is an all agency statewide contract, and 1,000 tons of e-waste have been collected. All agencies including public universities and local governments can participate, although it is not mandated for counties to recycle e-scrap. Bruce Scott stated it would be \$50 per ton for disposing of e-scrap in landfills but the state is actually making money for recycling the e-scrap. The cabinet

identified the number of recyclers in and out-of-state handling e-scrap and one of the problems with running a program is unregistered recyclers such as scavengers. Scavengers will take e-scrap to obtain the valuable materials but not comply with best management practices and environmental laws.

The cabinet supports a step-by-step approach to implementing an e-scrap program. There is no need for restrictive rules. The cabinet advocates a moderate position with respect to reporting standards and government controls. Specific program features for an e-scrap program include (a) producer registration and reporting; (b) requirements to take back other brands; (c) dealers and processors register and meet operating standards; (d) recyclers report e-scrap processed and obtain financial assurance; and (e) 3 year, phased-in landfill ban on e-scrap. There would be a need to amend requirements on hazardous waste generators to separate them from e-scrap operations.

Sen. Leeper asked the cabinet to further explain the take back for other brands. Tom Heil stated there are 19 states with e-scrap laws. Most encourage the dealers to take back other brands, but it is optional. Commissioner Scott remarked that if it was proposed as a required element of a manufacturer take back program, the cabinet would not support it. Tom Heil continued that the cabinet would like to obtain more data on take backs.

Rep. Gooch next invited Larry King with Sims Recycling Solutions to speak about take back programs across the nation. He described what industry has learned through the process. Mr. King described Sims Recycling Solutions as a global electronics recycler and also stated that he worked with Hewlett Packard. He stated there are two types of e-scrap manufacturer programs one of which is producer responsibility. Mr. King described producer responsibility in detail.

No two states of the 19 states with e-scrap legislation have similar language, begging the question whether e-scrap legislation is necessary and which program the state should choose. It may be necessary because it is difficult to change consumer behavior. The consumer, not the recycler, owns the material to be discarded. One must examine the goal of the legislation. If the goal is to keep e-scrap out of landfills then the second system is best, but be aware of unintended consequences. Some states obligation to collect is based on sales and that encourages them to get more products out to market and then back into recycling. It is better to keep it in use

rather than returning to the recycling stream however.

There are some similarities in the process. First, all stakeholders need to be at the table. The state has enforcement power. There needs to be a level playing field. Second, labeling should be required and retailers should only sell those products in compliance. Finally, there should be penalties for noncompliance. Most penalties enacted are monetary, but that is not as powerful as restricting the manufacturer's right to sell. Also state should require recyclers and manufacturers to report. Some states include collectors in the reporting requirements. It is hard to sign up collectors however because many do not have the administrative support to field reporting requirements.

Complexity makes the cost of legislation go up. There should be recycling standards and a couple of states actually created their own standards. However, adopting unique standards creates inconsistencies and confusion. Use of national standards such as the R-2 which includes environmental assurance a closure plans is best. In terms of program costs for the state, resource requirements vary from 2 to 100 full time equivalents. California has over 100 full-time equivalents and it is the highest per capita producer responsibility state. The lowest cost is a producer responsibility state too.

What is known is that "one size fits all" does not work in e-scrap. This has to do with various industry differences such as the lifespan of the device, the sales channels for the product and the stability of the original equipment manufacturer. There are also going to be urban and rural differences and preferred elements of legislation should include underserved households and consumer markets. Original equipment manufacturers may want to contract with a recycler of choice and most audit their operations. Manufacturers want to prevent business ties with unscrupulous recyclers and do not want to be held accountable for consumer behavior. For example, if consumers discard rather than recycle, the manufacturer does not want to be responsible. Manufacturers want a high environmental standard and recyclers want a direct relationship with the manufacturer.

Rep. Pasley asked if there are measures to protect the information on hard drives, PDAs, and other devices, and whether there should be a penalty for recyclers who misappropriate information. Mr. King stated that Sims Recycling uses the Department of Defense standard which is to destroy the hard drive. Sims grinds the drives which is the only way

to ensure protection. Consumers should drill a hole through the drive or hit it with a hammer to ensure protection before recycling. No state has a penalty but this is a relatively new issue. Currently, the consumer is responsible for data left on the drive which forces the consumer to be proactive before recycling.

One representative asked if it is like the fee paid to dispose of tires and whether it should be performed like waste tires. Mr. King responded that California charges at the point of purchase and that fee has now gone to \$12.00. No other state has charged a fee, and tires, oil, and electronics are different in how long the material can be held before disposing of it. The biggest impetus to recycling in the European Union is that the culture is different. In Europe, a covered device is anything with a plug. They recycle 3 times more than the United States. It is expensive to dispose of computers and it costs anywhere between 25 and 35 cents per pound to process a monitor.

Rusty Cress with Kentucky Association of Manufacturers spoke next. He described 3 different legislative proposals on e-scrap over several sessions. One was done by Rep. Webb and two others by Sen. Harper-Angel. KAM hopes there is an e-scrap bill in 2010 with the proper agreed upon provisions. KAM contends a bill should contain the following items. It should focus on the consumer. It should leave business contract alone. Mandatory take back programs should be only on large manufacturers and all requirements of law should apply prospectively, not retrospectively. There will be orphan waste as a separate issue. A landfill ban should be phased in over 5 years rather than 3 years. Government oversight should be minimal but reporting is reasonable. KAM recommends 2 one year studies on the issue to determine effectiveness and another study to deal with orphan wastes.

Rep. Gooch asked if there are materials improperly disposed of causing problems currently, and whether one industry is being singled out over others. Mr. Cress responded that KAM is focused on this issue because it is wanted. The information technology industry has taken the lead on this issue. Mr. King commented that there are materials of concern and there are reasons for the hazardous materials in these products. However, that does not negate the need or value of recycling them.

Rep. Gooch thanked the presenters and then asked members of the Kentucky Woodland Owners Association to testify. Mr. Jeff Stringer, John Obrikey and Betty Williamson testified on a series of legislative pro-

posals desired for the 2010 session. The three legislative issues for the 2010 session are reauthorization of the forest health task force, reduction of timber theft and biomass incentives that encourage use of woody biomass. Dr. Obrikey discussed the reauthorization of the forest health task force. It would address issues of quarantine, disease outbreaks and insect infestations. There is a need for legislation to establish and endorse the forest health task force so that it can apply for federal dollars. Funding would be good too but we understand these are tight budgetary times.

Dr. Stringer stated there is civil law that allows victims of timber theft to be compensated but criminal law should set better penalties. It should balance so as not to harm for unintended trespass. There are two options: reinforce the bad actor provisions of the master logger laws; and create a special unit to aid in evidence gathering of timber theft. A timber theft arson unit within the Division of Forestry would be one way of approaching this problem.

Ms. Williamson discussed biomass and renewable fuels stating that there is a need for incentives for owners to better manage their forests. The Kentucky Division of Forestry needs to be stronger. Incentives would include funding the Division of Forestry rather than the Department of Agriculture and incentives to assist loggers and industry directly.

Rep. Gooch thanked the presenters and remarked that forests can reduce carbon from power plants. There has been substantial loss of forested land since the beginning of the industrial revolution.

Rep. Moore asked if there will still be timber theft problems even if the law is strengthened and whether it is trying to exact compliance by threat. Dr. Stringer replied that there will still be problems and that they hope for deterrence through stiffer penalties.

Rep. Sinnette asked whether logs are going out of state and whether it would be possible if the sawmill could take only marked logs for development of evidence. Dr. Stringer stated most of it is local and that marked logs have been a discussion in past ideas about legislation.

Sen. Leeper asked for the definition of woodland owner. Dr. Stringer reported that it is anyone with 1 acre and up. Sen. Leeper asked about problems from other invasive pests. Dr. Obrikey replied that there are many invasive plants coming into the area and there is the problem of the gypsy moth.

Sen. Leeper asked about the health of trees after the 2009 ice storm. Dr. Stringer stated that it

depends on the degree of damage. Some species will recover quickly while others will take a long time. Overall they are weakened which makes them susceptible to disease and insect infestations.

Rep. Gooch remarked that in the fall we will have to examine the damage again. He then called for a motion to adjourn. After a motion and a second, the committee adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 3rd Meeting of the 2009 Interim September 23, 2009

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, September 23, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins, Jr., Julian Carroll, Carroll Gibson, Ernie Harris, Dan Kelly, Alice Forgy Kerr, Mike Reynolds, Elizabeth Tori, Robin Webb, and Ed Worley; Representatives Eddie Ballard, Kevin Bratcher, Dwight Butler, John "Bam" Carney, James Comer, Jr., Tim Couch, Will Coursey, Danny Ford, Jim Glenn, Derrick Graham, Mike Harmon, Melvin Henley, Charlie Hoffman, Jimmie Lee, Mary Lou Marzian, Brad Montell, Lonnie Napier, Sannie Overly, Tanya Pullin, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Kent Stevens, John Tilley, Jim Wayne, Alecia Webb-Edgington, Ron Weston, and Brent Yonts.

Guests: Charles Geveden, Justice and Public Safety Cabinet; Dr. Michael McCall, Kentucky Community and Technical College System; Tim Longmeyer, Fred Nelson, Stephanie Marshall, and Joe Cowles – Personnel Cabinet; Bill Thielen and Charlene Haydon, Kentucky Retirement Systems.

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

The minutes of the August 26 meeting were approved without objection, upon motion by Senator Thayer.

First on the agenda was discussion of the proposed transfer of certain employees from the Kentucky Community and Technical College System (KCTCS) to the Kentucky Department of Corrections (DOC), Justice Cabinet. The transfer would involve employees responsible for educational instruction at Kentucky correctional institutions. Guest speakers were Charles Geveden, Dep-

uty Secretary of the Cabinet, and Dr. Michael McCall, President of KCTCS.

Representative Cherry explained that legislation to accomplish the proposed transfer was considered in the 2009 regular and extraordinary sessions but was put "on hold" for further study in order to ensure that there would be no negative impact on the benefits and rights of the affected employees. He said that the issue is being discussed today in order to address questions that have arisen about the proposed transfer.

Mr. Geveden said that for years DOC was responsible for education of prisoners. In 2006, however, the education funding was transferred from DOC to KCTCS. He explained that he and Dr. McCall both believe that the mission of educating prisoners should be a function of DOC rather than KCTCS, although KCTCS would likely still be utilized for college level courses. He said the Cabinet intends to see that the 69 employees who would be transferred would not be disadvantaged in any way. All personnel would be retained at their current salary, and they would become merit employees under KRS Chapter 18A. They would keep the same retirement benefits, as far as possible, and would be permitted to transfer leave balances. The transfer would require legislative action. Employees who work inside the prisons would be eligible for the "hazardous duty" designation, which would enhance their retirement benefits.

Mr. Geveden said that DOC plans to partner with a program called Kentucky Adult Education to provide GED (General Educational Development) courses. He said the program is 40 percent federally-funded and serves all Kentucky counties. Attainment of G.E.D. will be the primary focus, since most prisoners have less than a high school education. Concluding his remarks, he said that legislation to accomplish the transfer will be proposed in the 2010 regular session.

Dr. McCall said that KCTCS supports the efforts of the Justice Cabinet. He said that KCTCS and the Cabinet have worked together closely over the years. Both now agree that the transfer of the education responsibility to DOC is a good move, and KCTCS will support the legislation in 2010. KCTCS will continue to offer whatever assistance is needed at the college level. Dr. McCall stressed that protecting the rights and benefits of the affected employees is a major concern.

Senator Carroll asked what it costs to house a prisoner annually. Mr. Geveden said the cost is approximately \$19,000 per inmate. Senator Carroll said that about 70 percent of inmates do not have a high school

diploma. He also contended that the \$19,000 cost per inmate is actually much higher when considering what it costs the state to support family members of inmates. He commended the prisoner education programs but said he believes the General Assembly has been remiss over the years by not addressing the high school dropout problem more aggressively.

Senator Gibson asked whether the employees who would go into hazardous duty positions would be eligible to retire with full retirement benefits after 20 years' service, even though most of those years may have been in a nonhazardous position. Representative Cherry called on Bill Thielen, Chief Operating Officer of Kentucky Retirement Systems, and Charlene Haydon, Chief Benefits Officer, who were present in the audience. Ms. Haydon said that the nonhazardous and hazardous service credit of the employee would be combined in order to determine retirement eligibility but that there would be a reduction in benefits based on the nonhazardous service. She stated that the employee would be eligible to retire with full benefits after 20 years.

Senator Webb asked where the 69 employees are currently located. Dr. McCall said that, for administrative purposes, they are located at the Bluegrass, Jefferson and Maysville Community and Technical Colleges. Mr. Geveden explained that the employees who teach at the correctional institutions live in nearby areas and do not have to travel from the community college campuses. Senator Webb asked about the fiscal impact of placing the employees in hazardous duty positions. Mr. Geveden said he does not know that yet because it has not been determined how many will be in hazardous positions. He said that information on the cost will be available, however, by the time the legislation is introduced in 2010.

Senator Blevins asked how many of the 69 were in hazardous positions before becoming an employee of KCTCS. Dr. McCall said he did not know but could try to find that out. Senator Blevins asked whether the employees going into hazardous positions would be subject to the provisions of House Bill 1 (2008 Extraordinary Session). Mr. Thielen said that the transferred employees' participation date would be recognized back to the time they began participating in the Kentucky Teachers Retirement System (KTRS) or the Kentucky Employees Retirement System (KERS). They would not be treated as new employees under House Bill 1 and therefore would be eligible to retire with full benefits after 20 years of service. He said, however, that unless the legislation specifies otherwise,

the nine 403(b) employees would be considered new employees under the House Bill I benefit structure. [NOTE: A 403(b) plan is a defined-contribution retirement plan.] Mr. Geveden noted that those nine employees are not members of either KTRS or KERS. Representative Cherry explained that KCTCS employees—unlike employees in KTRS and KERS—have the option of choosing a 403(b) plan. He said he envisions that the legislation will take care of those nine employees to ensure that they will not be treated as new employees for retirement purposes.

Senator Tori said it would be helpful to the Committee to have additional information, such as duty assignments of the employees and how the transfers would impact the retirement systems and the state budget. Dr. McCall said that KCTCS will be glad to provide any information that is needed. Representative Cherry said that those issues will be fully discussed when the legislation is considered in 2010. He also explained that those KCTCS employees who have been working inside the prisons were not previously classified as hazardous because there are no hazardous positions within the KCTCS system.

Representative Carney said it is his understanding that the local school instructors who supply educational services for the Juvenile Justice facility in his district will not be impacted by the proposed transfer. Mr. Geveden said that is correct. There were no additional questions, and Representative Cherry thanked the speakers.

Next on the agenda was a briefing by the Personnel Cabinet regarding the 2010 Kentucky Employees Health Plan (KEHP). The Cabinet was represented by Tim Longmeyer, Deputy Secretary; Fred Nelson, Commissioner, Department of Employee Insurance; Stephanie Marshall, State Wellness Director; and Joe Cowles, General Counsel.

Mr. Longmeyer gave a recap of 2009 open enrollment. He spoke of the Cabinet's efforts to encourage greater participation in the consumer-driven plan, Maximum Choice, which currently has about 25 percent participation. He said that in 2009 the Cabinet improved communication to members through the collection of 128,000 e-mail addresses. There was a significant increase in wellness participation. Also, in 2009 the first "active" online open enrollment was conducted since the time when KEHP became self-insured, and more than 285,000—including waivers—enrolled.

Mr. Longmeyer discussed KEHP challenges and principles. He said that high health plan inflation is a

continuing challenge. Other challenges include improving member tools and education, increasing participation in wellness and disease management programs, and increasing movement into consumer-driven plans. KEHP's guiding principles are: provide uniform coverage across the Commonwealth; encourage wellness and healthy lifestyles and improve chronic disease care; provide better preventive care at little or no cost; educate members about plans that are more appropriate for their health needs; provide plan alternatives that are accessible for retirees; provide both quality and lower cost PPO options; provide plans with unlimited lifetime maximums; and improve the subsidy for family and dependent coverage.

Mr. Nelson discussed highlights of the 2010 plan year. He said that, in contrast to 2009, there will not be any major changes in 2010, but there will be several benefit enhancements and other minor changes. He said that during next month's open enrollment a new planning tool—the KEHP Benefits Analyzer—will be introduced. Not a generic benefit calculator, this tool will access the member's personal medical and pharmacy claims for the prior 18 months and use that information, coupled with the employee's premium and out-of-pocket costs, to illustrate how the member would fare under each of the four benefit plans. The Analyzer tool can also be used for flexible spending account and health reimbursement account calculations. Mr. Nelson explained that a 2008 analysis found that 40 percent of KEHP members had total yearly medical and pharmacy costs of \$1,000 or less; yet they chose Optimum PPO, the most expensive plan. If they had had a better understanding of the plan choices, those members probably would have enrolled in Maximum Choice—the consumer-driven plan which includes a \$1,000 health reimbursement account for single coverage—and every penny of their costs would have been covered. Later in the meeting he stated that 28 percent of members had medical and pharmacy expenses totaling \$500 or less.

Mr. Nelson said that the discounts offered by the Virgin HealthMiles program were originally scheduled to end September 30, 2009; however, the discounts will be extended through the end of October. Members who sign up for Virgin HealthMiles during open enrollment will receive the discounts for the following 12 months. In 2010 a new Wellness Hotline will also be available.

Mr. Nelson said that there will be some benefit enhancements in 2010 and also some modest benefit

reductions. The enhancements include improved coverage for preventive colonoscopy. Also, the value of the up-front benefit allowance in the Capitol Choice hybrid plan will be improved so that the after-copay balance of the cost for doctor's office visits will not be deducted from the member's benefit allowance. In the Standard PPO plan, the in-network deductible for single coverage will be reduced from \$750 to \$500, and the monthly employee premiums for couples and families will also be reduced.

Mr. Nelson said that the benefit reductions include an increase in the emergency room copay from \$50 to \$75 in the Optimum PPO plan, a change that is intended to discourage unnecessary emergency room visits. In the Capitol Choice and Optimum PPO plans the copay for specialist physician visits will cost \$5 more than the copay for primary care physician visits. Also, in the Optimum PPO plan the single in-network deductible will be raised from \$250 to \$300, and the in-network couple/family deductible will increase from \$500 to \$600.

Mr. Nelson discussed premium rates. He said that currently three of the four plans have a zero dollar contribution for single coverage. In 2010, the zero contribution will apply to only two of the four plans—Standard PPO and Maximum Choice. In the Optimum PPO plan employees currently pay \$25 per month for single coverage; in 2010, that will increase to \$27.50. In the Capitol Choice plan, the current zero contribution for single coverage will become \$5 in 2010.

Mr. Nelson said that the rate increase for most dependent coverages has been held to the 5-6 percent level each year since the plan became self-insured in January 2006. The increase will be kept at that level also for 2010. In the Standard PPO plan, however, the premiums for dependent coverage will be significantly reduced in an effort to attract employees to that plan. He explained that this was possible because the premiums that have been paid for that plan have been more than adequate to cover claims thus far.

Mr. Nelson said that the non-smoker incentive—i.e., the premium surcharge paid by smokers—is currently \$21 per month for single coverage and \$42 for dependent coverage. In 2010, employees who smoke will have to pay an additional \$24 for single coverage and an additional \$48 for dependent coverage. He said that KEHP has also adopted a new policy to allow employees to convert to non-smoking status during a plan year if they first complete a smoking cessation program.

Mr. Nelson said that open enrollment for 2010 will again be mandatory and will be conducted October 12-25. He said that the Cabinet was successful in getting virtually everyone enrolled during 2009's mandatory open enrollment because there was a concerted effort to locate people who failed to enroll. The Cabinet will work toward the same goal for 2010. There will be 18 benefits fairs statewide from October 1-15, and insurance coordinator training is underway.

Mr. Nelson concluded his report by stating that shortly after open enrollment a dependent eligibility audit will be conducted that will require documented proof of a dependent's eligibility. He said that, based on the experience of other states and municipalities, the Cabinet anticipates that the audit could result in significant cost savings. The state of Georgia—with a much larger enrollment than KEHP—was able to save about \$30 million after auditing dependent eligibility.

Ms. Marshall gave a brief update on the state wellness program. She said that currently 1,600 state employees are enrolled in the weight-wise challenge. During the upcoming months the wellness program will focus on prevention, cancer awareness, the Great American Smokeout, and stress management. As 2009 draws to an end, the data will be examined to determine the impact of the wellness program on both health care costs and the productivity and engagement of employees.

Representative Wayne commended the efforts of KEHP staff. He asked why the federal Mental Health Parity Act, which takes effect January 1, 2010, for most health plans, was not mentioned as a benefit enhancement. Mr. Nelson stated that in accordance with state law KEHP already covers mental health and substance abuse treatment and that he believes it mirrors what is being proposed at the federal level.

Senator Thayer complimented the Cabinet for its user-friendly online enrollment process. He said he has not received any complaints about it from his constituents, many of whom are state employees. He also thanked the speakers for their presentation and expressed appreciation for the Cabinet's good work on behalf of state employees.

Representative Harmon asked about the strength of the health insurance trust fund. Mr. Longmeyer said that according to the latest actuarial reports, the fund will "finish this year in the black." He explained that although \$50 million from the health trust had been used to help balance the budget, the Cabinet would only have been able to use a small per-

centage of those funds—about 25 percent—to cover cost overages from a previous plan year. He said that each plan year is designed to stand on its own, and use of health trust fund dollars beyond the provisions in HB 321 (enacted in 2008) would require legislative authorization.

Representative Ford asked whether there has been any comparison of premium rates with private industry. Mr. Longmeyer said yes and that the rates for dependent coverage are in the medium range—about 43-45 percent—when compared with plans of like size. Rates for single coverage are very competitive and would probably rank in the top 10 percentile. He said the Cabinet has strived to minimize premium increases for dependent coverage and to continue offering some zero dollar plans. Mr. Nelson agreed. He stated that KEHP is by far the largest self-funded plan in the state. Its single coverage rates and benefit plans are comparable to large Kentucky companies such as Toyota and Lexmark but that those companies tend to subsidize dependent coverage at a higher level. Representative Ford said it is his understanding that insurance costs are generally higher for large groups than for small groups. He asked whether this holds true for KEHP. Mr. Longmeyer stated that KEHP's costs are probably higher, not only due to the size of the member pool but also its broad range. He pointed out that the KEHP group also includes pre-65 retirees.

Representative Cherry thanked the speakers for a good presentation. The final item on the agenda was a subcommittee report from Senator Thayer regarding the September 22 meeting of the Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs. The report was adopted without objection, upon motion by Senator Thayer.

Representative Cherry briefed the Committee regarding the October 7 meeting to be held in Princeton, Kentucky. Business concluded, and the meeting was adjourned at 2:30 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

**Minutes of the 4th Meeting
of the 2009 Interim
October 7, 2009**

The fourth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 7, 2009, at 1:00 PM (CDT), in Princeton, Kentucky, at the City Hall/Welcoming Center. Representative Mike Cherry, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mike Cherry, Co-Chair; Senators Julian Carroll, Carroll Gibson, Dan Kelly, Mike Reynolds, and Robin Webb; Representatives Eddie Ballard, Dwight Butler, John "Bam" Carney, James Comer, Jr., Will Coursey, Jim Glenn, Derrick Graham, Mike Harmon, Melvin Henley, Charlie Hoffman, Mary Lou Marzian, Darryl Owens, Tanya Pullin, Tom Riner, Steven Rudy, Kent Stevens, Tommy Thompson, Jim Wayne, and Brent Yonts. (Representative Jody Richards also sat in with the Committee.)

Guests: Gale Cherry, Princeton City Government; Brock Thomas, Caldwell County Government; Fred Brown, Crittenden County Government; Chris Lasher, Livingston County Government; Van Newberry, McCracken County Government; Major General Edward Tonini, Brigadier General John Heltzel, and Steven Bullard - Kentucky Department of Military Affairs; Helen Helton, Stephanie Bell, and Wayne Miller - Kentucky Public Service Commission; Brad Hall, Kentucky Pharmacists Association.

LRC Staff: Judy Fritz, Kevin Devlin, Alisha Miller, Bill VanArsdall, and Peggy Sciantarelli.

Representative Cherry and his wife, Princeton Mayor Gale Cherry, welcomed everyone to Princeton. Representative Cherry announced social activities that would be available after the meeting. He also noted that the meeting is being held in a renovated building that was once the First Christian Church. A video featuring the city's "Paint the Town" restoration project was then shown. The purpose of the meeting was to discuss emergency response to the ice storm of January 2009. Photographs of the ice storm in western Kentucky counties were on display in the meeting room lobby.

County judge/executives from Representative Cherry's legislative district were the first persons to testify: Brock Thomas (Caldwell County); Fred Brown (Crittenden County); Chris Lasher (Livingston County); and Van Newberry (McCracken County). They discussed in detail how the ice storm impacted communities in their counties; emergency response efforts at the local, state and federal level; success in meeting the challenge; and what could have been done to enhance and improve upon those efforts. They also expressed gratitude for all the help that was received.

Mr. Thomas said that help came in from other counties and that many aspects of the response in his county were handled well. He said, however, that preparedness needs improvement with respect to communication with state responders, shelter space, and availability of generators.

Mr. Brown said that welfare

checks by local emergency services personnel, the National Guard, and the Boy Scouts saved at least six lives in his county. He said that emergency services personnel, volunteers and residents of his county were aware of the resources that were available when the ice storm struck and what they were up against. He commended all for their quick response.

Mr. Lasher said they knew early on that about 10 percent of the county's population of 10,000 would be unable to help themselves. He said he is proud to be able to say that everyone survived. One of the most important lessons learned was that in a disaster of that magnitude the county should expect to be on its own for five to seven days. Also, emergency plans need to be simplified, because the state's emergency operations plan book is too complicated and too lengthy.

Mr. Newberry said that since McCracken County is one of the larger counties, with about 65,000 people, help came quickly and the county was aggressive in its response. He said fuel was stockpiled and shelters were readied in advance. He expressed gratitude for all the personnel and volunteers who helped get the roads open quickly, and he especially commended the Paducah Amateur Radio Association and the National Guard for their assistance.

Representative Cherry recognized emergency management personnel and county officials in the audience. Lyon County Judge/Executive James Campbell was present and, when invited by Representative Cherry, spoke briefly from the audience about the ice storm in his county.

Senator Carroll asked about cell phone coverage following the ice storm. Mr. Brown said that communication was a major problem. He said the AT&T network was totally down but that, through the efforts of a local Verizon dealer, within six hours the local emergency operations center (EOC) was provided approximately 45 Verizon phones charged and ready to use. The phones were shared with the National Guard and emergency personnel. He said the county also had access to two satellite radios but they would not work because of the dense cloud cover. He added that, thanks to Homeland Security, a new mobile tower will be coming to his county and can be shared with surrounding counties. Mr. Lasher said that cell phones in his county were down completely during the first 24-48 hours but that Verizon coverage later resumed. He said they were able to communicate with EOC in Frankfort by satellite phone but that the state EOC was overwhelmed with calls; he had to declare a disaster in

Livingston county six times before being acknowledged. Land lines were down for a week or more.

Representative Rudy asked about the status of debris removal. Mr. Newberry said that in McCracken County the cost of debris removal for state, city and county roads will be about \$10 million. He said it appears that the county will be responsible for about 1.5 percent of the \$3.5 million debris removal bill for county roads alone. He expressed gratitude to the state, which will cover 12 percent of the cost. He said all of the money has not been paid out yet but should be available before long, according to General Heltzel. He said that FEMA (Federal Emergency Management Agency) debris removal was underway quickly—within six or seven days. In the event of another disaster, however, he hopes that FEMA will send in the "real" front line people immediately. The public relations personnel who arrived first were not much help in the beginning. Mr. Brown said that debris problems will continue for years as debris continues to wash down from surrounding watersheds during heavy rains.

Senator Gibson said the counties in his district were similarly affected. He suggested it would be helpful in the future to have a regional repository for emergency equipment that would allow quicker access. He said, too, he thinks it is important that there be more control at the local level.

Mr. Lasher emphasized the need to simplify the process and follow common sense. To illustrate, he said that counties had been able to acquire generators to keep the water system functioning; however, FEMA forced them to unhook operating generators so that FEMA could hook theirs up. He questioned how this made sense and why they lost local control in this instance. Mr. Brown agreed with Mr. Lasher. He said there was a similar occurrence at the water plant in Marion, Kentucky. FEMA threatened that the county would not be reimbursed for the cost of the rented generator unless FEMA's generator was used. However, the FEMA generator had to be taken offline because it blew the circuitry, and a repairman had to be called to reinstall the initial generator. He said he, personally, would prefer not to have FEMA come in until actual recovery is underway. Mr. Thomas concurred.

Representative Owens asked whether there was any effort to prepare citizens to be own their own initially. Mr. Newberry said he thinks it would be wise at both the state and local level to place greater emphasis on having people prepare to be on their own during the initial days of an emergency. Mr. Lasher agreed. He

said the 2009 ice storm was an eye opener and that he personally had not been prepared even though the county had dealt with an ice storm the previous year. He suggested using public service announcements to remind citizens to be prepared and stay prepared.

Representative Cherry thanked the county judges and welcomed the next speakers: Major General Edward Tonini, Adjutant General of Kentucky, and Brigadier General John Heltzel, Director of the Kentucky Division of Emergency Management (KYEM). Colonel Steve Bullard, Department of Military Affairs, accompanied them. They provided copies of their PowerPoint presentation to the Committee.

General Tonini commended the Kentucky National Guard for being a spearhead for the lifesaving mission and assisting in the cleanup and relief efforts after the incredibly destructive ice storm. He gave an overview of those operations and made recommendations for the future.

General Tonini said that the January ice storm was the most catastrophic natural disaster to strike Kentucky since the New Madrid earthquake of the early 1800s. He said it effectively paralyzed the entire western half of the state. More than 769,000 Kentucky homes were without power—representing 36 percent of all electrical customers in the Commonwealth. The means to communicate was lost in much of the state. In the hardest hit area of Western Kentucky all land lines, microwave, cellular, and emergency communications were out of service. Without power, municipal water plants could not provide water to more than 250,000 customers. Primary and secondary roads were impassable. A state of emergency was declared in 103 of Kentucky's 120 counties. At least 36 Kentuckians lost their lives—most while fighting the extreme cold weather or through carbon monoxide asphyxiation from improper ventilation of makeshift home heating. In keeping with the New Madrid response operations (ops) plan, Kentucky's state EOC was immediately brought to full strength with representatives from all state agencies, under the direction of General Heltzel, who designed the March 2008 seismic exercise that in essence served as a rehearsal for the "battle" to be fought during the ice storm. Simultaneously, 1,600 members of the Kentucky National Guard were dispatched to the hardest hit areas to begin assisting local authorities.

General Tonini said that the initial reaction of the emergency response force was typical—measured and somewhat tempered. He said that Kentucky's Division of Emergen-

cy Management began an immediate dialogue with FEMA for the delivery of food, water and generators to Ft. Campbell for distribution to two National Guard logistics support areas and regional points of distribution. The Governor declared a state of emergency on January 27, followed by the unprecedented activation of all available Kentucky Army National Guard units and select portions of the Kentucky Air National Guard. Contact with FEMA and Homeland Security occurred immediately after the storm left eastern Kentucky. The Governor's order placed an additional 3,000 National Guard soldiers and airmen into the effort, bringing the number mobilized to 4,600—the largest state call-up of Kentucky National Guard forces in the history of the Commonwealth. Through the Emergency Management Assistance Compact (EMAC), National Guard personnel and equipment from Florida, Indiana, Tennessee, Ohio, Wisconsin, and West Virginia flowed into Kentucky. Troops worked with local emergency management agencies, fire departments, search and rescue squads, law enforcement agencies and volunteers to conduct wellness checks for all households in the affected counties. KYEM immediately set up regional EOCs with power and satellite communications; established or reestablished emergency communications; provided support to AT&T, the primary cell phone service in the area, to get power back to cell towers; and created a distribution chain to expedite the flow of emergency resources. More than 1.3 million meals and more than 2.1 million bottles of water were distributed. An immediate priority was placed on restoration of power to water plants, communications facilities, shelters, and nursing homes.

General Tonini said that a first ever Joint Power Operations Center was established, with representatives of FEMA and the U. S. Army Corps of Engineers working alongside KYEM and National Guard personnel to prioritize and emplace more than 150 generators in order to energize critical infrastructures. He said that while the operation was not flawless, he believes it was one of the most successful such operations in the history of the country. As a result of the identified need, Congressman Rogers requested a \$6.1 million grant for generators for the Kentucky National Guard to pre-position around the Commonwealth.

General Tonini said that Kentucky's Bluegrass Station in Lexington houses the largest storage facility for emergency equipment in America. He said that, although some local officials felt that it took a long time to get minimal essen-

tial equipment after the ice storm, it would have taken much longer in any other state. He also said that having an annual FEMA-funded disaster exercise is a must and that Kentucky does not currently have this. He stated that this type of exercise must be part of the Homeland Security federally funded program and should not have to compete with or degrade the military resources intended to fund training for military combat readiness.

General Tonini said that there were frustrations with FEMA but that, all in all, he would give FEMA a very good grade for their assistance in the recovery effort. Concluding his presentation, he commended Governor Beshear, the unity of effort exemplified by the National Guard and KYEM, the door-to-door wellness checks by the Army and Air Guard, and the spirit of the people of Kentucky during this emergency.

Representative Pullin expressed appreciation for this opportunity to hear from local and state officials. She said that near the end of the 2009 legislative session, the General Assembly in a bipartisan manner passed legislation [HB 541] which she co-sponsored to compensate National Guardsmen who were disabled as a result of injury during the 2009 winter storm. She said that legislation will be proposed in 2010 to amend the law [KRS 38.030] to make those provisions permanent. General Tonini said that 10 guardsmen had suffered serious injuries that required substantive time off from their jobs. He expressed appreciation for the legislature's concern for members of the military.

General Heltzel was next to speak. He said that KYEM's response to the ice storm was not as good as they would have liked but that he was pleased with how well they did. He said the Division is small, with only about 60 employees, and that 360 years of senior experience were lost from the Division during the last six months of 2008. He discussed positive elements of the disaster recovery. They included quick action by the communities, which was responsible for saving a number of lives; unified command of the responders; cooperation of partners in state government cabinets; experience in the New Madrid 2008 exercise; deployment of the Guard; dedicated emergency management personnel at all levels; and support at the national level by FEMA and others. He particularly commended county emergency management personnel, many of whom are volunteers. He said there was some frustration with FEMA but that the recovery could not have been completed without FEMA stepping in.

General Heltzel said that logistics continues to be an issue but that he is pleased that the team fielded and executed more than 1,200 support requests across the state within two weeks. He said the logistics system that was established was termed "world class" by FEMA. Logistical supply activities were set up at the Wendell Ford Training Center and in Paducah and Owensboro, moving more than 2.1 million containers of water and more than 1.3 million meals into the communities. Through team effort, more than 168 generators were installed statewide. In comparison to hurricanes Ike and Katrina, Kentucky set the record for the fastest installation of generators ever in a disaster situation. The problems experienced with generators were partially due to the fact that Kentucky had never conducted critical infrastructure assessments. The Acting FEMA Director made funds available to Kentucky, and the Corps of Engineers and Kentucky guardsmen stayed an extra two weeks to complete 2,318 critical facilities assessments that are now on file for future reference.

General Heltzel spoke about where improvements were needed. He said that the regional emergency operations centers set up at the Wendell Ford Training Center, in Benton and Owensboro were not able to consolidate information and relay it to Frankfort. The emergency management function has been merged with the Kentucky National Guard Task Force, and now there is enough staff but not enough equipment. Regional emergency operations centers need to be established across the Commonwealth, with access to all forms of communication, generators, water, etc. During the ice storm there was a shortage of regional managers. There are now 11 managers instead of 10. Resource management needs to be improved, and within the next six months KYEM expects to have one of the most comprehensive sets of emergency resource equipment and personnel in the nation.

General Heltzel said the state EOC facility needs four times the current number of personnel and that plans are in process to secure federal funds for this purpose. Training of county officials has been lacking across the Commonwealth. He said that the knowledge and awareness exemplified by the county officials at today's meeting are not representative of all areas of the state. KYEM is also working to improve understanding of the emergency management process, build on the emergency planning process at the county level, and to offer a certification program for county emergency management teams.

General Heltzel said that after the ice storm the state EOC implemented a new process for catastrophic operations that includes strategic planning, analysis of data, and consolidation of information from all strategic Commonwealth groups. He said the new process was validated during the pandemic flu exercise in August. Training of county officials in the new resource management system is underway. He said it is important to have community involvement in local preparedness and that full-time directors are needed in the counties. Fifty percent of the directors' salaries would be underwritten by a federal grant if the state is able to fund the other 50 percent. He said KYEM has worked hard to improve communications since the ice storm, including communicating the true status of emergency preparedness. They are now conducting the first round of assessments at the county level and will be happy to provide that information when it becomes available. He also spoke about the importance of individual preparedness and preparedness at the community and state levels.

General Heltzel said that the issue of critical manning at KYEM has been fixed, thanks to the support of the Governor, General Tonini and federal funds. The recovery section, which previously was down to three, now has 28 staff. In September alone \$55,000,000 in claims was paid out—more than in the last five years combined. He said that KYEM has a new system and a new attitude, with a level of transparency that has never existed before. Kentucky is currently in the process of planning for and distributing \$60,000,000 in mitigation funds to local communities. Because Kentucky is the first “enhanced state,” the mitigation program is superior in southeast Region IV and therefore receives 20 percent of disaster funds, whereas other states only receive 15 percent.

General Heltzel said that the ice storm was responsible for the creation of 2,320 project worksheets, compared to a previous high of 500 in Kentucky. The total value of the projects was \$273,953,976, of which \$239,630,704 is reimbursable. KYEM has paid out \$113,896,071, or 48 percent of project costs, and all of the 103 disaster counties but three—Allen, Casey, and Martin—have received payments. He also briefly discussed costs associated with other recent Kentucky disasters.

In closing, General Heltzel said he would make sure that county judges are made aware of the National Resource Conservation Service grant program, which may be able to assist in the removal of ice storm debris from creeks. He said the grant is

not administered by KYEM but that its main funding issue is the clearing of waterways.

Representative Graham asked how information is being disseminated to county officials. General Heltzel said he had attended several meetings of county judges and also is working with KACO (Kentucky Association of Counties) to get the information out. He said a number of county judges attended the Governor's Emergency Management Workshop in Louisville this year, hosted by KYEM, and that the state's regional emergency managers also routinely contact county judges. He said it is an ongoing process that he takes very seriously. Informational literature is also available on KYEM's web site. Regarding the county emergency response plan books, General Heltzel said they have now been reduced to about 100 pages and are easier to read. He said the ice storm counties that had an involved county judge/executive, a trained emergency management director, and input from the community responded very well; counties that lacked any of those components struggled.

Representative Thompson said he appreciates the Generals' comments. He said that reimbursement for ice storm cleanup that had to be paid from depleted county budgets is one problem that persists in his district (Davies and Ohio Counties) and some other western Kentucky counties and that he would appreciate any help to expedite these payments. General Heltzel said he would look into this if those county officials would contact his office and reference today's conversation. He stated that Kentucky has implemented the rapid recovery payment system and is the first state in the southeast to do so. He said a closeout inspection by FEMA has to occur prior to reimbursement but that KYEM can pay up to 90 percent to counties that have properly completed the paperwork. He said that a month ago there was a shortage of FEMA personnel in Kentucky who could do a closeout inspection; however, after notifying Region IV administrator Phil May, FEMA has doubled its staff here and is now doing closeouts daily and weekly.

Representative Yonts said he thinks that at the local level there should be a designated person to relay information to the media and the public in order to avoid misinformation. General Heltzel agreed that there is often misinformation. He explained that, by law, communities are supposed to follow the ICS (Incident Command System) model, which is a mandated process for use in emergency management at all levels that says “who talks when.” Rep-

resentative Yonts expressed thanks to the National Guard and KYEM for their well orchestrated effort in saving lives. He extended special thanks to Command Sergeant Major Armstrong, who was present.

Representative Carney complimented the officials involved in the ice storm recovery. He said he was happy to hear about the New Madrid rehearsal and asked how often the exercise would be conducted. General Heltzel said that KYEM is now involved in preparing the entire state for the World Equestrian Games that will be held in the fall of 2010. He said there will be a national level exercise in May 2011—the New Madrid response plan for the Central United States Earthquake Consortium (CUSEC). It will be the largest exercise in the history of the nation. Representative Carney said he is concerned about the communications issue. He suggested that perhaps there should be a greater investment in hand-held radios. General Heltzel said all counties need EOCs capable of the full spectrum of communications, as well as power, water, and a trained staff, but that he does not know how it can be funded. He said that KYEM should have completed a capability assessment of all county EOCs by the end of the year. General Tonini said he is working at the federal level with respect to a future technology that will give cell phones the capability of connecting to both satellites and cell towers. He said that if specific emergency responders were to have that dual capacity, it would solve much of the communications problem.

Representative Coursey asked about the National Resource Conservation Service grant for waterway cleanup. General Heltzel said he did not have any information about that with him today. He suggested that questions about the grant should be addressed to the Kentucky Division of Water. Representative Cherry said he is also interested in waterway cleanup. He directed staff to transmit information about the grant program to members of the Committee.

Representative Coursey asked about the availability of federal funds to pay full-time county emergency management directors, which had been mentioned earlier. General Heltzel said there is a federal emergency management assistance program in which federal funds from EMTG grants can be matched with state funds. He acknowledged that resources are tight at the county level and said it is his goal to have an emergency manager in every county if matching funds can be found at the state level. He said this is included in proposals that will be submitted to the Governor.

Representative Stevens asked

what is being done to inform the general public about the importance of individual preparedness. General Heltzel said that they have tried public service announcements and radio spots but that they do not seem to have much impact. He said they are taking a new approach by commissioning two teachers to create an earthquake preparedness lesson of instruction for the third through fifth grades that, hopefully, will begin in the first week of February, which is National Earthquake Preparedness Month.

Senator Webb asked about the cost, viability, and geographic distribution of mobile towers. General Heltzel said he would need to get back with Senator Webb later regarding her question. He went on to say that regardless of who owns equipment, it can be moved in a state of emergency. Part of the communications solution in the future will be “things that we do not leave outside” that can be redeployed. One problem with satellite radios during the ice storm was that the antennas were coated with ice and subject to damage during attempts to de-ice. Senator Webb said she would like to see the strategic communication plan include placement on a regional basis for deployment in area development districts, perhaps, or clusters of counties based on accessibility and population.

Senator Webb asked whether KYEM will be submitting recommendations to the legislature regarding how to incent counties that are inadequately funded to work toward having a full-time emergency management director. General Heltzel said he would welcome the opportunity to present the legislature with the results of KYEM's assessment of the county EOCs. He said the assessments are not intended as a report card but rather a way to provide a strategic picture of the state and determine where the focus should be. Senator Webb said she thinks the legislature would like to have this type of information.

Senator Carroll said it was reported today that the estimated total value of the disaster was \$273+ million. He said, however, he learned last night at a local meeting that Farm Bureau has paid out over \$1 billion in claims.

There were no additional questions, and Representative Cherry thanked the speakers. The next speaker was Helen Helton, General Counsel for the Kentucky Public Service Commission (PSC). She was accompanied by Stephanie Bell, Legislative Liaison, and Wayne Miller, Director of Financial Analysis.

During her presentation, Ms. Helton referred to a displayed map

entitled, "Electric Distribution Service Areas, With January 2009 Ice Storm Accumulations." Ms. Helton discussed the Commission's review of utility performance during the power outages caused by the January ice storm. She said the ice storm created the most extensive power outage in the state's history, breaking the record set by Hurricane Ike in September 2008. She also expressed gratitude for the response efforts at the state, local, and national level.

Ms. Helton said the PSC's main focus is on utilities within its jurisdiction. She said they have obtained massive amounts of information from the utilities and are in the process of drafting a report of the findings and recommendations. The report should be ready for release by mid-November. It will be distributed to all legislators and also posted on the PSC web site. Initial survey inquiries were sent in early April to the utilities and to legislators in the affected areas. Requests for information were also sent to county judges, mayors, metro and urban county council members in Jefferson and Fayette County, and members of the Kentucky Industrial Utility Customers (KUIIC) organization. Information was also collected from consumers.

Ms. Helton said there are 14 electric providers in the areas hit hardest by the ice storm. Only the four providers that are under PSC jurisdiction were required to respond, but utilities not regulated by the PSC have also been forthcoming with information. She said that utilities in the state had to replace 10,066 poles that broke in the storm—enough poles to carry line from one end of the state to the other. It is hoped that the completed report will initiate vigorous discussion and will lead to improved disaster planning. Ms. Helton said that subsequent to issuance of the report, the PSC would be happy to appear again before the State Government Committee to answer questions and would also be willing to work with all the agencies involved in the disaster.

Senator Webb asked whether the report will include any dialogue about communication issues. She said that in her district in Lewis County communication had been a problem during power outages. Ms. Helton said that PSC will be recommending ways to improve communications with the utilities, which was a large problem during the ice storm. She said that PSC established this case in order to gather facts rather than having to speculate how to improve response. The difference between services that

have battery back-up versus generator plans will also be part of the report.

Representative Cherry thanked Ms. Helton, Ms. Bell, and Mr. Miller and said he hopes to have them return to another meeting to discuss the report. The final speaker was Brad Hall, Executive Director of the Kentucky Pharmacists Association, headquartered in Frankfort.

Mr. Hall discussed how the pharmacist community responded to the ice storm. He said that as part of the Association's commitment to the community, the Board of Directors volunteered him to support Dr. William Hacker, Commissioner of the Kentucky Department of Public Health, as a resource for pharmaceutical issues.

Mr. Hall cited examples of assistance given by local pharmacies during the ice storm to assist citizens in obtaining needed medication and supplies. He said he would like to work with the General Assembly on opportunities that would give pharmacists the ability to better serve constituents.

Senator Carroll asked whether the Association's proposals would extend to narcotics. Mr. Hall said that they would offer that as an option, primarily for maintenance medications. When Senator Carroll asked, Mr. Hall said that use of the KASPER (Kentucky All Schedule Prescription Electronic Reporting) system would absolutely be part of the discussion.

Representative Cherry thanked Mr. Hall. Business concluded, and the meeting was adjourned at 3:40 p.m.

(Note: Because a quorum was not present, the minutes of the September 23 meeting were not approved.)

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

**Task Force on Elections,
Constitutional Amendments, and
Intergovernmental Affairs
Minutes of the 2nd Meeting
Of the 2009 Interim
September 22, 2009**

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, September 22, 2009, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., Julian M. Carroll, Carroll Gibson, Ernie Harris, Dan Kelly, and Johnny Ray Turner; Representatives Kevin D. Bratcher, Mike Cherry, Lar-

ry Clark, James R. Comer Jr., Joseph M. Fischer, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, and Ron Weston.

Guests: Trey Grayson, Secretary of State; Barbara Holsclaw, Jefferson County Clerk; James Lewis, Leslie County Clerk, Chair – Kentucky County Clerk's Association Elections Committee; Representative Jesse Crenshaw, Father Patrick Delahanty, Teena Holbig, Ed Monohan, and Raoul Cunningham; Sarah M. Jackson, Executive Director, Registry of Election Finance.

LRC Staff: Greg Woosley, Bill VanArsdall, Alisha Miller, Karen Powell, and Terisa Roland.

Chairman Owens asked for approval of the August 25, 2009 minutes, and the minutes were approved.

First on the agenda was a discussion on early voting, and Chairman Owens noted that he intended to use the discussion to help draft a bill for the 2010 Regular Session. Several guests offered various perspectives on the issue, with Secretary of State Trey Grayson providing an overview of state trends; Jefferson County Clerk Barbara Holsclaw speaking mostly in favor of early voting from a large county perspective; and Leslie County Clerk James Lewis speaking mostly against early voting and cautioning the task force about the potential costs. Several members of the task force posed questions to the guests and voiced their opinions and concerns, with the main focus being on how early voting might change campaigns, voting, and elections generally, and on the costs to establish an early voting system. A copy of the handout material from the discussion can be found in the LRC library.

The second item on the agenda was an update on the filing requirements of "future year candidates" by Sarah Jackson, Executive Director of the Registry of Election Finance. Ms. Jackson explained that persons wanting to raise and spend money as candidates in future elections, prior to the date for filing nomination papers with the Secretary of State or county clerk, are required to file a letter of intent (termed a "future year letter" by the Registry) and a financial report with the Registry. A copy of the handout material can be found in the LRC library.

The final item on the agenda was a presentation by Representative Jesse Crenshaw and several invited guests presented information on pre-filed BR 1, relating to the restoration of voting rights for felons. The presenters noted that Kentucky is only one of two states that deny the right to vote to convicted felons unless the right is restored by the Governor

and stated that more than 128,000 persons in Kentucky have completed their sentence but not had their right to vote restored. A copy of the handout material from this presentation can be found in the LRC library.

Chairman Owens said that an October meeting had not been confirmed, but he noted that if one were held it would likely be on the regular meeting date, October 27, 2009.

Chairman Owens concluded all business and the meeting was adjourned at 2:45 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

**Subcommittee on Kentucky
Waterways**

**Minutes of the Second Meeting
of the 2009 Interim
October 20, 2009**

The second meeting of the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation was held on Tuesday, October 20, 2009, at 10:30 AM, in Room 149 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Senator Ed Worley; Representatives Charles Miller, and Tanya Pullin.

Guests Appearing Before the Subcommittee: Colonel Keith A. Landry, Commander, Louisville District Corps of Engineers; and Jeff Wood, Senior Corporate Counsel, Ingram Barge Company.

LRC Staff: Brandon White, Dana Fugazzi, and Linda Hughes.

Col. Landry began his testimony by saying that the Louisville District's Fiscal Year (FY) 2008 budget was \$1.4 billion and that it sustained economic outputs and savings of \$7.2 billion, nationwide during 2008. He said there are eight navigation dams and 16 lock chambers in the Louisville District, with three locks in the Top 5 and five in the Top 10 of the busiest locks in the nation.

With regards to Louisville District's navigational infrastructure impact on the nation, Col. Landry said that in FY 2008 the economic models indicated there were over 35,111 jobs with an economic impact of over \$7.2 billion. This economic impact is defined by efficiency savings and prevented flood damages. The district's impact during FY 2008 consists of over 125 construction projects; employment of 930 workers; over 23 percent of tonnage moved through Kentucky's locks with \$515 million in personal income and \$40 million in sales and income taxes; and prevented \$57.3 million in flood damages.

Col. Landry stated that the

Ohio River banks house 56 coal-fired power plants (nine in Kentucky), for twenty percent of the nation's coal-fired capacity. Other statistics Col. Landry noted were as follows: barges can move freight more economically than trucks or railroads. Barges, per one gallon of fuel, can move one ton of freight 600 miles, verses trucks moving that same ton less than 100 miles on the one gallon of fuel, and rail a little over 400 miles. And for safety purposes, he quoted trucking average fatalities per billion ton miles at 155 accidents per 160 miles, rail at 22.7 fatalities, and 1 for barges.

Col. Landry stressed that the Ohio River dams and locks are aging and with that aging comes financial responsibility for maintaining the navigation infrastructure. He commented that one of the locks at Markland Dam is currently under repair and hopefully that lock will be functional again in April, 2010, barring additional problems. Col. Landry stated that there are two locks at each dam to allow for continued water traffic in the event one lock needs repair.

Senator Worley asked what materials were used in the local dams. Col. Landry stated concrete, with two wicket dams constructed of wood in the south eastern part of the state.

Senator Worley asked if they were all in reasonably good shape. Col. Landry said they were considered to be in better shape than those in other regions of the country, but there are some problems. He said in most cases it is not the dams that are the problem, but rather it is the locks that are in need of repair.

Senator Worley asked what it cost to lock a water vessel through a lock. Col. Landry stated that he did not have that information with him, but would forward that information to the Subcommittee.

Representative Pullin inquired into having two 1200 ft. locks at the Greenup Dam, as opposed to one 1200 ft. and one 600 ft. lock. Col. Landry stated that since that decision was made between Washington and the Huntington District and he did not know, but would forward Representative Pullin's inquiry to the Huntington District.

The next person to testify before the Subcommittee was Jeff Wood, Senior Corporate Counsel, Ingram Barge Company, who presented report from the National Waterways Foundation.

Mr. Wood said that the Ingram Barge Company operates over 4,000 barges and 120 towboats. He said it is the largest dry cargo and third largest liquid carrier in the industry, with its primary markets in long-haul bulk commodities.

Mr. Wood informed the members that the report from the National Waterways Foundation reiterated several facts discussed earlier by Col. Landry, i.e., the amounts of the nation's commodities transported by water; the easing of rail and highway congestion in local communities as the result of waterway travel; and the mileage of tonnage shipped by barges verses the trucking industry and the nation's rail system. Mr. Wood said that the report showed that transporting freight by water is the most energy-efficient choice.

Mr. Wood said that inland waterways transport generates fewer emissions than rail or truck per ton-mile. On an emissions per ton-mile basis rail transport emits 39 percent more carbon monoxide while and truck transport emits 37 percent more. Water transport also moves hazardous materials safely and has lower injury and fatality records compared to rail or truck.

In closing, Mr. Wood showed two U.S. maps, the first showing 1998 truck volumes on the nation's eastern seaboard and the other depicting 2020 truck traffic, which had more than doubled in the 22 years. He stated that the waterway systems were currently well-positioned to respond to future needs with the least impact of any surface mode on air quality, the environment, and public safety.

With no further business before the Subcommittee, the meeting adjourned at 12:15 p.m.

**INTERIM JOINT COMMITTEE
ON VETERANS, MILITARY
AFFAIRS, AND
PUBLIC PROTECTION
Minutes of the 3rd Meeting
of the 2009 Interim
September 10, 2009**

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, September 10, 2009, at 1:00 PM, in the Louisville Regional VA Office. 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, Julie Denton, Carroll Gibson, Denise Harper Angel, and Kathy W. Stein; Representatives Linda Belcher, Dwight D. Butler, Larry Clark, Tim Couch, Ron Crimm, Myron Dossett, Bill Farmer, Jeff Greer, Tim Moore, Rick G. Nelson, Fred Nesler, Tom Riner, Steven Rudy, Charles Siler, Dottie Sims, Ancel Smith, and Alecia Webb-Edgington.

Guests: Margaret Plattner, Deputy Commissioner, Pam Cypert,

Executive Advisor for Field Operations and Women Veterans Coordinator, KY Department of Veterans Affairs; LTC TinaGay Riddle, KY Army National Guard; Mike Fairchild, Assistant Director, Louisville VA Regional Office; Valencia Martin, Latonia Trowell, Cleopatra Buckner, KY Air National Guard; Mary Broussard, Marine Corp League; Geoff Pinkerton, Office of State Budget Director; Alicia Sells, University of Louisville; Ron Wolf, City of Louisville; and Brent Kelly, KY National Guard.

LRC Staff: Erica Warren, CSA, Tiffany Opie, Clint Newman, and Rhonda Schierer.

Chair Tori welcomed members and asked for a motion to approve the minutes of the August meeting. Representative Rudy moved to approve the minutes. Representative Farmer seconded the motion to approve the minutes. The minutes were approved by a unanimous voice vote.

Chair Tori called on Erica Warren to read a committee resolution urging that the Veterans Administration to locate their proposed hospital for in-patient services in the hospital district in downtown Louisville, and that the Zorn Avenue location be used for out-patient services. Chair Tori asked for a motion be made on the resolution. Senator Clark moved to adopt the resolution. Representative Farmer seconded the motion. The resolution was adopted by a unanimous voice vote.

Chair Tori called on Margaret Plattner, Deputy Commissioner of Women Veterans Issues, and Pam Cypert, Executive Advisor for Field Operations and Women Veterans Coordinator, Kentucky Department of Veterans' Affairs (KDVA). The committee was shown a movie clip from the "Lioness," a documentary about the first generation of female combat veterans. Rep. Riner asked Deputy Plattner who did the synopsis of the film. Ms. Plattner stated that the synopsis was done by the New York Times. Deputy Plattner gave a brief historical overview of women in the military. She also shared an article titled, "G.I. Jane Breaks the Combat Barrier" which stated that more than 220,000 women have fought in both the Iraq and Afghanistan wars.

Sen. Gibson asked about the percentages of women that are in the military. Pam Cypert stated that the Air Force is 20 percent, the Navy is 15 percent, the Army is 14 percent, the Marine Corp is 11 percent, and the Guard and Reserve is 17 percent women.

Rep. Belcher asked about the legal process in the military for women and their protection when reporting an assault. Ms. Cypert stated that women can seek treatment without reporting a crime and then later

when they are able, they can report that crime. She stated that it is easier to move the victim out of the unit than it is to take the appropriate action against the individual that committed the crime.

Rep. Webb-Edgington asked if it was correct to say that women in the military want to serve in combat but want training equal to that of male soldiers. Ms. Cypert stated that was correct and recommended that members see the entire documentary on the "Lioness" as it tells what women are experiencing and what congress needs to do. She added that women are literally asked to go on patrol without training. Co-Chair Pullin asked if service in combat tours affect promotion possibilities for women. Pam Cypert stated yes, one combat tour can make a difference.

Ms. Cypert briefed the committee members on health care, mental health care, benefits, homelessness, and things that elected representative and individuals in the Commonwealth can do to support women veterans. She discussed how VA hospitals are not equipped to handle women's issues, domestic violence, rape, and many other medical issues that women veterans are facing and they do not have a good list of resources in the community shelters where women can go for domestic violence issues. Ms. Cypert added that because the law says that women will not be in direct combat roles, even though they are, they have a greater burden of proof. She stated that there is a bill in congress right now, HR 952 and it has passed the House and headed to the Senate which would fix the law for women veterans. Ms. Cypert stated that community based organizations are the best bet for women veterans who are in danger of being homeless and that the KDVA works with a network of shelters. Rep. Belcher asked if there is a list of shelters and if the committee members could get a copy of them. Ms. Cypert stated that there is a list of shelters and a book that she will get to the committee. Chair Tori asked that a list be prepared and placed in our folders for our next committee meeting. Rep. Clark asked if they had a website. Ms. Cypert stated that they do have a website and there is a list of shelters on it.

Sen. Clark expressed interest in HR 952 in Congress and that members should support it. Chair Tori stated that was an excellent idea and Rep. Larry Clark made a motion to have staff draft a resolution supporting the legislation in Washington. Rep. Moore stated that he would like to see the resolution before signing on and Chair Tori stated that staff would get a draft to all members before getting the resolution in final

form.

Sen. Stein stated that in the past, she has noticed that when looking at minorities, there is not always complete cooperation in how their peers look at issues and asked if that is an issue for women veterans. Ms. Cypert stated that the VA is committed to do the right things for women veterans but women in certain areas are cared for more than others. Ms. Cypert stated the Lexington VA Medical Center is doing a spectacular job for women veterans.

Chair Tori recognized LTC Tina-Gay Riddle, Educational Services Officer (ESO) and Human Resources Equal Opportunity Officer (HREO), Kentucky National Guard, and thanked her for all she is doing. Chair Tori asked LTC Riddle, a combat veteran, to speak to the committee on her experience. LTC Riddle briefed the committee on her return from Desert Storm. She stated that she was a retail manager and married before she left for Dessert Storm but when she returned home, she was given a lowly position, her marriage disintegrated, she was left with very little income, and suffered depression issues, sexual harassment, and even homelessness. LTC Riddle stated that she pressed on and paid for treatment and is still in the military. She stated that women veterans simply need to be evaluated, assessed, and treated. She announced a Kentucky Women's Annual Experience, titled "Leaving No Soldier Behind" conference at the Lexington Hyatt Regency Convention Center on September 24-27, 2009.

Sen. Clark asked if Kentucky has a safety net to prevent combat veterans with mental health issues from filling up the prisons. Ms. Cypert stated that some states are doing fabulous and have trained first responders to help recognize combat veterans, and they have created a hotline and community provider pro bono for veterans. She stated that there is nothing like that in Kentucky currently.

Co-Chair Pullin stated that it is planned for the November meeting to thoroughly discuss mental health issues, veterans, men and women, and looking more deeply into what Kentucky does and what other states do to make improvements. Sen. Clark stated that it would be good to have first responders for mental health issues to come and tell the committee about their training. He also suggested checking to see if there is federal money available to teach our first responders. Co-Chair Pullin added that along with the work that will be done in November, the committee will be looking at issues that have been in the news about the increase in suicides among soldiers who have returned home from combat.

Rep. Webb-Edgington stated that the Criminal Justice training is currently required with KLE standards to have a 40 hour in-service and perhaps maybe they could consider having the Department of Criminal Justice training at the November meeting to have a better understanding of the mental health training. She suggested that training be a supplement to the required 40 hours which currently includes domestic violence, and HIV training.

Chair Tori called upon Mike Fairchild, Assistant Director for the Louisville VA Regional Office and thanked him for the meeting accommodations for the committee. Mr. Fairchild gave a brief overview of the two primary business lines they have which are the compensation and pension, and the vocational and rehabilitation, and that they administer compensation and pension, disability and benefits. He stated that the Louisville VA Regional Office is a part of the Veterans Benefits Administration (VBA). He offered a tour of their office to members immediately upon adjournment.

Co-Chair Pullin announced that "The Wall That Heals" will be in Bowling Green, KY, on September 24-27, 2009. She added that there was an informational sheet in the meeting folders.

Chair Tori thanked members for coming and entertained a motion to adjourn. There being no further business, the meeting adjourned.

CAPITAL PLANNING ADVISORY BOARD Minutes of the 4th Meeting of the 2009 Calendar September 18, 2009

The 4th meeting of the Capital Planning Advisory Board was held on Friday, September 18, 2009, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Melvin B. Henley, Co-Chair; Senator David E. Boswell, David Buchta, Ben Fletcher, Carole Henderson, John Hicks, Bill Hintze, Mary Lassiter, William May, Katie Quitter, Edmund Sauer, and Laurel True

Guests: Kristi Culpepper, Legislative Analyst, Capital Projects and Bond Oversight Committee; Phil Baughn, Commissioner, Steve Rucker, Executive Director of Office of Infrastructure Services; and Glenn Thomas, Director, Division of Information Technology Governance, Office of Enterprise Technology, Commonwealth Office of Technology (COT); John Hayek, Vice President, Finance, Planning and Performance; Allen Lind,

Vice President for Information and Technology; Sherron Jackson, Assistant Vice President, EEO and Finance, Council on Postsecondary Education (CPE)

LRC Staff: Don Mullis, Shawn Bowen, and Jennifer Luttrell.

Co-Chair Westwood made a motion that the minutes of the August 21, 2009, meeting be approved. This motion was seconded by Mr. Buchta and approved by voice vote.

Mr. Mullis then reviewed one informational item included in members' folders: an update of the state-owned buildings vs. leased buildings. This information was requested by members at a previous meeting. As of September 2009, the state utilizes approximately 6.6 million square feet of space; of this amount, approximately 5 million square feet is state-owned and 1.4 million is leased space.

The next item was a staff report on Kentucky's Bonded Indebtedness. Ms. Kristi Culpepper, Legislative Committee Analyst, Capital Projects and Bond Oversight Committee, presented the report.

Ms. Culpepper discussed an in-depth analysis of the historic, current, and projected debt position of the Commonwealth, and addressed factors that influence the cost of issuing debt. A part of the analysis included a projection of the level of debt outstanding and the commitment of appropriations to that debt at the conclusion of the 2010-2012 biennium. The analysis was based on three scenarios about the type, timing, and cost of debt. Ms. Culpepper said Kentucky is not seen as having a structurally balanced budget and the state's reliance on nonrecurring revenues is viewed as a negative credit factor, which could cause the state's credit rating to be downgraded. She said the cost of financing a project is based largely on the market's perception of the likelihood that the state will meet its obligations, with greater risk of not meeting those obligations requiring higher interest costs. Currently, Kentucky's economy is under significant stress related to the national economic downturn. This stress, coupled with a pattern of using non-recurring revenues to fund on-going expenditures, the depletion of reserves, and three biennia of record levels of debt authorizations, has limited the resources available to fund additional borrowing and increased the state's exposure to further deterioration in revenues.

Co-Chair Henley stated that the cigarette tax revenues have increased, and this should be a positive factor in determining the state's credit rating.

Mr. True asked if any credit rat-

ing agencies discussed Kentucky's tax structure or tax modernization. Ms. Culpepper said that she did not recall this being discussed.

Senator Boswell stated that there was an extensive study conducted on the tax modernization under the Patton administration that may be of some help.

Co-Chair Westwood stated that a study also occurred under the Fletcher administration. He inquired as to whether other states, besides California are faced with issues similar to Kentucky. Ms. Culpepper replied that Ohio and Michigan have recently had their bond rating downgraded and Florida was facing similar problems. She also stated that 14 states have an unemployment rate over 10 percent.

Co-Chair Henley commented that problems with the state's tax structure can be attributed to two things: a shift from a manufacturing-based to a service-based economy wherein services are not taxed and increased internet sales which normally do not bring in any sales tax.

Ms. Lassiter said that the state should keep a conservative budget and that the template rate of six percent is reasonable to which Ms. Culpepper agreed.

Co-Chair Westwood asked Phil Baughn, Commissioner, COT to present the Report and Recommendations of Information Technology Projects of State Agencies. A total of 113 capital IT projects totaling more than \$775 million were submitted by state agencies for consideration in the 2010-2016 planning cycle, and of that amount, 95 IT capital items/systems were proposed for the 2010-2012 biennium. Mr. Baugh explained the methodology used to generate a designation of high value used in the review process for these projects. Each proposed capital IT item and system was evaluated against two sets of independent criteria: Business Value and Risk Factors. The two criteria were comprised of seven components, each of which were numerically weighted with assigned ranking being explicitly defined. For the 2010-2012 biennium, a total of 29 postsecondary education institution projects, with a total value \$123,388,000 (General Funds) were assigned a "High Value."

Mr. True asked if there were any federal initiatives that would impact these projects. Mr. Baughn stated that this information was all that was presented to COT.

Mr. True stated that the state should focus on human value as opposed to business value by addressing the computerization of case management information, which is exchanged between mental health agencies and child support agencies.

Co-Chair Westwood agreed with this statement. Mr. Baughn stated that how the agency delivers its services is up to each agency, but that he is willing to work with the Board to put some elements in this report that will push those elements to the front.

In response to a question from Mr. Hintze, Mr. Baughn said the ten high value projects in COT's report were exclusive of CPE's recommendations. He added that he would provide a list of current approved projects as requested by Mr. Hintze.

Mr. Hicks asked what COT's opinion of the agencies planning process was and with COT's infrastructure, how they could do a better job of synchronizing the two components. Mr. Baughn suggested that there be a more horizontal and long-term view in planning.

Co-Chair Westwood then asked John Hayek, Vice President, Finance, Planning and Performance; Allen Lind, Vice President for Information and Technology, and Sherron Jackson, Assistant Vice President, EEO and Finance, to present the Report and Recommendations of Postsecondary Education Construction and Information Technology Projects.

Mr. Hayek gave a brief overview of CPE's priorities and recommendations, which will be narrowed down in the next month to reflect the current budget and fiscal environment. He said CPE will hold a special budget on October 1, 2009, and action will be taken on October 6 and submitted on October 15.

Mr. Lind briefly explained how each project received a "high value" rating. The model divided General Fund projects into five categories: 1) capital renewal, maintenance and infrastructure pool in which projects are unranked; 2) space adequacy/renovation; 3) new construction/expansion of education and general space; 4) research and economic development projects; and 5) information technology initiatives. Projects in categories 2-4 were ranked using five criteria, and projects in category 5 were ranked and submitted separately. Based on these criteria, 13 of 29 2010-2012 IT projects requesting general revenue funds were designated as high value.

In response to a question from Co-Chair Westwood, Mr. Hayek said there has been significant progress toward reaching the goals for 2020, including increased enrollment and graduation rates across the board in 2008. He said the state should be more aggressive over the next 11 years in order to meet these goals.

John Hicks, Deputy Director, Office of State Budget Director presented an update of the implementation of Senate Bill 189. SB 189

was passed by the 2008 General Assembly, and directed the Finance and Administration Cabinet and the Office of State Budget Director to produce and present to the Legislative Research Commission on or before December 1, 2008, a report with recommendations addressing the establishment and implementation of a process for funding deferred and future major capital renewal, maintenance, and renovation needs costing \$600,000 or more each for facilities owned by the Commonwealth and operated by state agencies. CPE was also directed to assist in this effort in regard to establishing a process for funding deferred and future major capital renewal, maintenance, and renovation needs costing \$600,000 or more each for facilities owned by the Commonwealth and operated by the postsecondary institutions.

Mr. Hicks said they have polled other states in regards to how they handle deferred maintenance needs. As an example, he said Utah sets a target each budget session of 1.1 percent of the asset value of each building. Florida's Governmental Services Agency (GSA) charges for space occupancy, which builds a reserve that is devoted to deferred maintenance. Tennessee sets rates, which build up a depreciation pot. Virginia uses bond funds at higher levels, which go into deferred maintenance investments balanced against new construction projects. In the postsecondary education category, Nebraska has matching provisions for state bonds for deferred maintenance. Kentucky does this also, but does not finance it on an ongoing basis. In the early 90s, Minnesota started a sustained funding of deferred maintenance for postsecondary education, which provides more predictability for each budget.

Senator Boswell stated that sometimes asset preservation is more expensive than actually building a new facility. Mr. Hayek added that a good example of this is the Capital Plaza Tower. He said each project needs to be addressed individually. Mr. True stated that training for maintenance crews would help buildings last longer.

Mr. Mullis reminded the Board that the next meeting would be held on October 9 in Room 169 of the Annex starting at 1:00pm. He then briefly discussed the recommendation process for the statewide plan recommendations.

Mr. Hintze made a motion to add the Staff Report on Kentucky's Bonded Indebtedness as an appendix in the 2010-2016 Statewide Capital Improvements Plan. The motion was seconded and approved by voice vote.

There being no further business,

the meeting adjourned at 3:14pm.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

September 15, 2009

The Capital Projects and Bond Oversight Committee met on Tuesday, September 15, 2009, at 1:00 p.m., in Room 169 of the Capitol Annex. Representative Susan Westrom, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Susan Westrom, Co-Chair; Senator Elizabeth Tori; Representatives Robert R. Damron, Steven Rudy, and Jim Wayne.

Guests: John Hicks, Governor's Office for Policy and Management; Sam Ruth, Department of Facilities and Support Services; Larry Todd, Department of Parks; Charles Bush, Division of Real Properties; Sandy Williams, and John Covington, Kentucky Infrastructure Authority; Brett Antle, Office of Financial Management; and Susan Cottingham, Kentucky Housing Corporation.

LRC Staff: Don Mullis, Kristi Culpepper, and Samantha Gange.

Representative Rudy made a motion to approve the minutes of the August 18, 2009 meeting. The motion was seconded by Representative Wayne and approved by voice vote.

Representative Westrom called on Don Mullis, Committee Staff Administrator, to discuss correspondence and information items. Mr. Mullis said members' folders contained correspondence from the Cabinet for Economic Development, and the staff and bond market updates.

Mr. Mullis next reported that the University of Louisville (UL) has used available federal, general, and indirect cost recovery funds totaling \$214,793, to acquire an item of research equipment. Purchases of unbudgeted equipment must be reported to the Committee, but no further action is required.

Representative Westrom recognized John Hicks, Deputy Director, Governor's Office for Policy and Management, and Sam Ruth, Commissioner of Facilities and Support Services, Finance and Administration Cabinet. Mr. Hicks said that the Tourism, Arts, and Heritage Cabinet is reporting allocations from the Department of Parks, Parks Development Pool to fund two projects: Carter Cave Campground Renovation (\$1,300,000) and Pennyriple Forest Campground Renovation (\$1,100,000). The Carter Cave project will provide for the design of horse camping sites to include

site development, roads, utilities, and building structures. The Pennyriple Forest project will reprogram the current camping facility to include horse camping sites and will include site development, horse trails, roads, utilities, and building structures. Allocations in excess of \$400,000 must be reported to the Committee, but no further action is required.

In response to questions from Representative Wayne, Mr. Hicks said that \$4 million of the Parks Development Pool was allocated for campground upgrades. He said that the \$60 million for the Parks Development Pool and the \$35 million Parks Renovation Pool is fully obligated for projects.

Representative Westrom asked if any of the projects from these pools involved golf courses. Mr. Hicks said that approximately \$3.5 million from the Parks Development Pool was used to complete the General Burnside golf course.

Representative Westrom asked how many people use the Burnside golf course. Larry Todd, Deputy Commissioner, Department of Parks, said he did not have exact numbers, but since General Burnside opened last spring, it has been the Parks most popular golf course.

Senator Leeper asked Mr. Hicks what the criteria was for the Green Bank of Kentucky program. Mr. Hicks said that the Finance and Administration Cabinet will be taking applications from state agencies to invest funds into energy savings projects. Mr. Ruth said that Kentucky received \$18 million in federal stimulus money for this program. There are three types of applications for state agencies: an e-self; a hybrid; and an Energy Savings Performance Contract (ESPC).

In response to further questions from Senator Leeper, Mr. Ruth said that the Green Bank of Kentucky is a loan program and the energy savings generated will be used to repay the loan. The loans will range from 5-15 years depending on the size of the project and useful life of the equipment. He said that only state buildings are eligible for this program not leased buildings.

Next Representative Westrom called on Charles Bush, Director, Division of Real Properties, Finance and Administration Cabinet, to report 11 emergency leases. Mr. Bush said that the Finance Cabinet has declared an emergency under KRS 56.805 to allow for procurement of temporary storm debris storage sites for the Transportation Cabinet. No action is required for emergency leases.

Senator Leeper asked why the annual cost for the Owen County lease (PR-5021) was a single payment and all the other leases are

based on a per month cost. Mr. Bush said he thought that the single payment may have been negotiated up front. He said he would report the information back to the Committee.

In response to a question from Senator Tori, Mr. Bush said that the leases should be coming to a close this year. Senator Tori asked Mr. Bush to report back to the Committee when the leases are completed.

In response to a question from Representative Damron, Mr. Bush said that when the leases are finished, the storage sites will be cleaned and all debris will be removed.

Representative Westrom called on Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority (KIA) to present 13 loan requests. Ms. Williams said that the first loan request was a \$263,246 Fund A loan for the City of Ashland in Boyd County for the replacement of sanitary sewer lines along Putnam Street. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The second loan request was a \$1,200,000 Fund A loan for the City of Covington in Kenton County for the Prisoner's Lake Rainwater Harvest project. The loan term is 20 years with a two percent interest rate. The funding for this loan comes from the American Recovery and Reinvestment Act.

The third loan request was a \$135,000 Fund A loan for the City of Bowling Green in Warren County for the benefit of Bowling Green Municipal Utilities for the purchase of mobile generators. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The fourth loan request was a \$250,000 Fund A loan for the City of Wilder in Campbell County for sanitary sewer service to approximately 12 homes and one church on St. John's Lane. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The fifth loan request was a \$800,000 Fund A loan for the City of Frankfort in Franklin County for the Jones Lane Sewer Extension project. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The sixth loan request was a \$125,000 Fund A loan for the City of Richmond in Madison County to replace a Cantex submersible can-type lift station with a new duplex submersible station. The loan term is

20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

Senator Leeper asked for clarification on the "other" costs in the project budget for the Fund A loan for the City of Covington in Kenton County. Ms. Williams said this project is not a traditional sewer project, but a storm water project and the "other" costs associated with the budget are for a storm water control plan.

Senator Tori asked why the City of Frankfort enacted rate increases for its customers. Ms. Williams said the rate increases are not a result of this loan, but planned rate increases that have already been put into place to fund upcoming sewer projects. Senator Tori said that based on the current economic climate, these rate increases should have been delayed.

Senator Tori then asked why the City of Richmond enacted rate increases every year through 2014. Ms. Williams said that the City of Richmond's rate increases are a result of a new \$54 million wastewater treatment plant as well as to contend with the growth in the area and is not a result of this loan.

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

Next Ms. Williams reported that the seventh loan request was a \$7,500,000 Fund F loan for the City of Paducah in McCracken County for the benefit of Paducah Water Works for the Reidland Interconnect project. The loan term is 20 years with an interest rate of one percent.

The eighth loan request was a \$4,000,000 Fund F loan for the Louisville Water Company in Jefferson County for the I-64 Pipeline project. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The ninth loan request was a \$400,000 Fund F loan for the City of Elkton in Todd County for the purchase and installation of 1,000 radio meters to help identify areas of water loss. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The tenth loan request was a \$1,500,000 Fund F loan for the City of Jackson in Breathitt County for a raw water intake project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The eleventh loan request was a \$1,900,000 Fund F loan for Bluegrass Station in Fayette County for the completion of water system upgrades. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act and represents \$1,670,000 of Kentucky's required Green Reserve component.

The twelfth loan request was a \$2,120,000 Fund F loan for the City of Dawson Springs in Hopkins County for a waterline replacement project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act and the full loan amount will be used toward fulfilling Kentucky's Green Reserve requirement.

The thirteenth loan request was a \$1,153,000 Fund F loan for the City of Burkesville in Cumberland County for the Main Street Water Main replacement project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

Representative Rudy made a motion to approve the seven Fund F loan requests. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

In response to a question from Representative Westrom, Ms. Williams said that some of the projects are for waterline replacements. The projects were selected based on environmental benefits as well as economic benefits.

Representative Westrom asked if KIA could provide the Committee with a progress report of infrastructure projects across the state. Ms. Williams said it would be difficult to gather the information, but would do some research and let the Committee know if a report is possible. She also said this information could be available from the Division of Water.

Representative Damron commented that the 2020 Water Plan could give a baseline of the infrastructure projects across the state. Ms. Williams agreed. John Covington, Executive Director, KIA, said that KIA is responsible for statewide planning for water and wastewater and is currently in the process of beginning the prioritization of clean drinking water and wastewater projects across the state. He said there is a statewide database of all proposed and existing infrastructure projects for all systems that choose to participate.

In response to a question from Representative Westrom, Mr. Covington said KIA provides updates to the Agriculture Committee on the tobacco settlement line item grants. He said KIA would be happy to pres-

ent information to the Committee on the planning process of infrastructure projects.

Next Ms. Williams indicated that various coal and tobacco development grants authorized by the General Assembly were included in members' folders. Each project was authorized in a budget bill and no further Committee action was needed.

Representative Westrom called Brett Antle, Deputy Director, Office of Financial Management, to the table. Mr. Antle presented a new bond issue for Kentucky Housing Corporation (KHC) Multifamily Housing Revenue Bonds, Series 2009 (Country Place Apartments). Proceeds from this conduit bond issue will be used to finance the acquisition, rehabilitation, and equipping of the 150-unit Country Place Apartments in Hebron, Kentucky. All of the units included in the project will be reserved for families earning 60 percent or less of the area median income.

Representative Wayne asked why the KHC Executive Board would approve this project when research has shown that concentrating poor people in one area is not good social policy. Mr. Antle deferred to KHC. Susan Cottingham, KHC, said that Country Place Apartments are existing low-income housing units and the majority of the units are occupied. A developer wants to buy the property and remodel the units.

Representative Wayne asked what the logic was behind KHC wanting to subsidize and support this type of project. Ms. Cottingham said that KHC's goal is to preserve affordable housing and KHC is interested in using its tax-exempt bonding authority for this project. Representative Wayne commented that he could not support the project because it does not involve mixed-income housing, but low-income housing units only. He said research shows that concentrating low-income households in one area has had unintended consequences that the community pays the price for.

Representative Damron asked if KHC is just issuing the bonds and the developer is the one actually investing money. Ms. Cottingham responded affirmatively.

In response to further questions from Representative Damron, Ms. Cottingham said Summit Asset of Alabama was the developer and she thought the principles were also based in Alabama. The property is currently on an option to purchase. Ms. Cottingham said that Summit Asset is acquiring the property from Flournay Development of Georgia.

Representative Damron asked what the current rental rates are and what the new rental rates will

be. Ms. Cottingham said she would report the information back to the Committee.

Representative Westrom asked what the occupancy rate was over the last six months. Ms. Cottingham said she would report the information back to the Committee.

Senator Leeper asked if KHC could restrict the use of issuing of bonds at a tax-exempt rate to in-state developers only. Ms. Cottingham said she would have to defer to legal counsel and report back to the Committee.

Representative Damron made a motion to defer action on the KHC bond issue until the next Committee meeting. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

Next Mr. Antle reported three new bond issues with School Facilities Construction Commission (SFCC) debt participation for Madison County, Perry County, and Todd County.

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

Representative Westrom asked Mr. Mullis to report a new local school bond issue. Mr. Mullis said there was a new school district bond issue with 100 percent local debt support for Bullitt County. All disclosure information has been filed. No Committee action was needed.

With there being no further business, Representative Wayne made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 2:15 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September Meeting September 8, 2009

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 8, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Leslie Combs, Co-Chair; Senators David Givens, Alice Forgy Kerr, and Joey Pendleton; Representatives Robert R. Damron, Danny Ford, and Jimmie Lee.

Guests: Diana Barber, Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Michael Burleson, Kentucky Board of Pharmacy; Karen Greenwell, Noel Record, Kentucky Board of Barbering; Nathan

Goldman, Board of Nursing; Margaret Everson, Karen Alexy Waldrop, Catherine York, Kentucky Department of Fish and Wildlife Resources; Lora Gowins, Kelley Herbert, Ty Martin, Division for Air Quality; Mark Mangeot, Morgain Sprague, Justice and Public Safety Cabinet; Carol Brent, Crystal Casey, Ann Dangelo, Dawn Mattingly, Bonnie Lynch, David Steele, Kentucky Transportation Cabinet; Kim Collings, Marvin Combs, Division of Oil and Gas; Sharon Clark, Frank Goins, David Hurt, John Love, Tonya Parsons, Amanda Ross, DJ Wasson, Kentucky Department of Insurance; Carrie Banahan, Kerry Harvey, Betsy Johnson, Patricia Wilson, Neville Wise, Cabinet for Health and Family Services; Sarah Nicholson, Kentucky Hospital Association; Laura Belcher, Bill Kindred, T.J. Samson Community Hospital; Travis Bailey, St. Claire Regional Medical Center; Tim Brady, Our Lady of Peace; Jeff Earlywine, Boone County; Nina Eisner, The Ridge Behavioral Health System; Leslie Flechler, Lincoln Trail Behavioral Health System; Lance Folske, Rivendell Behavioral Health Services; Nancy Galvagni, Kentucky Hospital Association; Janet Feldcamp, Kathy Perry, Lisa Hinkle, Caresprings; Shane Koch, The Brook Hospital; Margaret Levi, Ephraim McDowell Regional Medical Center; Robert Long, Baptist Life Communities; Ruby Jo Lubarsky; Kelly Miller, Ridge Behavioral Health System; Steve Pendery; Janice Richardson, Rivendell Behavioral Health Services; Mike Rust, Kentucky Hospital Association; Shelly Shelby; Carolyn Wells, St. Claire Regional Medical Center; Greg Wells; Geoffrey Wilson, Ridge Behavioral Health System; Hollie Phillips, Joy Freeman.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 8, 2009, and submits this report:

The Subcommittee determined that the following administrative regulation did not comply with statutory requirements and was deficient:

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:075. Certificate of Need nonsubstantive review. Carrie Banahan, executive director, and Elizabeth Johnson, commissioner of the Department of Medicaid Services, represented the office. Tim Brady, CEO of Our Lady of Peace; Nina W. Eisner, CEO of the Ridge Behavioral Health System, member of the Kentucky Hospital Association Board of Trustees, and member of the Kentucky Hospital Association Psychiatric Forum; Nancy Galvagni, senior

vice president of the Kentucky Hospital Association; Robert Long, CEO and president of Baptist Life Communities; Ruby Jo Lubarsky, president of the Kentucky Association of Hospital Care Facilities; Mark Russ, president of the Kentucky Hospital Association; Tim Veno, CEO and president of the Kentucky Association of Homes and Services for the Aging; and Greg Wells, chairman of the board for the Kentucky Association of Hospital Care Facilities, appeared in opposition to this administrative regulation. Jeff Earlywine, county administrator for Boone County; Lisa Hinkle, of Carespring; and Steve Pendery, judge executive of Campbell County, appeared in support of this administrative regulation.

In response to questions by Co-Chair Combs, Ms. Banahan stated that in 2005 a primary angioplasty pilot project was established. The two (2) hospitals successfully completed the pilot project and had outcomes comparable to the national levels. Given that success in providing emergency services, the hospitals wanted to have the ability to provide emergency and elective services.

Senator Givens stated his appreciation for the pilot project, which allowed the two (2) hospitals to provide emergency angioplasty in rural areas. Senator Givens proposed an amendment to allow nonsubstantive review of proposals to establish a therapeutic cardiac catheterization program for acute-care hospitals that previously were granted a certificate of need to participate in a primary angioplasty pilot project. A motion was made by Senator Givens and seconded by Representative Ford to approve the following amendments: (1) to amend Section 1 to establish a definition of "therapeutic cardiac catheterization outcomes"; and (2) to amend Section 2(2) to require nonsubstantive review of proposals to establish a therapeutic cardiac catheterization program for acute-care hospitals that previously were granted a certificate of need to participate in a primary angioplasty pilot project, to enable those hospitals to provide primary and elective angioplasty if the specified requirements were met. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made by Representative Damron and seconded by Senator Pendleton to approve the following amendment: to amend Section 2 to require nonsubstantive review of proposals involving an application to transfer or relocate existing certificate of need approved nursing facility beds between long-term care facilities if the selling or transferring facility failed to comply with federal regulations requiring the installation

of sprinkler systems and if the specified requirements were met. With only Representative Lee voting in opposition to the amendment and with agreement of the agency, the amendment was approved.

In response to questions by Co-Chair Tori, Ms. Banahan stated that the office wanted to allow a nursing facility to transfer beds within an Area Development District, rather than within the county limits. She stated that an emergency did not exist that precipitated the proposed policy change, but that the proposed change would expedite the process. She added that this did not create new nursing facility beds, but allowed 286 already approved beds to be transferred within an Area Development District in response to the closure of the Lakeside nursing facility in Campbell County.

In response to questions by Representative Lee, Ms. Banahan stated that the policy change allowed already approved beds to be transferred within an Area Development District and that information regarding the impact to long-term care facilities in Northern Kentucky was not readily available. She stated that the office planned to follow up with that information for the Subcommittee. She added that nursing facility beds in Boone County were currently at ninety-four (94) percent of capacity. Representative Lee stated that this policy change would disrupt the current Certificate of Need process and that there should be consistent requirements for all regions of Kentucky.

In response to a question by Representative Ford, Ms. Banahan stated that the office would investigate the need for more nursing facility beds in his district. She stated that the office could not eliminate the Certificate of Need process without action by the General Assembly. She added that the office had not yet investigated the impact of eliminating the Certificate of Need process, but would do so.

In response to questions by Senator Givens, Ms. Banahan stated that the office did not wish to defer consideration of this administrative regulation until more information was available because Boone County nursing facility beds were at ninety-four (94) percent of capacity.

In response to questions by Co-Chair Tori, Ms. Banahan stated that the date of the proposed public hearing on this administrative regulation was July 21, 2009, but that the public hearing was cancelled because the office did not receive responses that anyone intended to attend. Written comments from the public were received and that the amendment to transfer nursing facility beds within

an Area Development District was proposed in the original filing on June 3, 2009. Subcommittee staff added that, pursuant to KRS 13A.270(7)(a), a public hearing may be cancelled if the agency did not receive notice that an interested party intended to attend by five (5) business days prior to the scheduled hearing date. Subcommittee staff also noted that, even if the public hearing was cancelled, the agency was obligated to continue to accept any written comments from the public during the comment period.

In response to questions by Representative Damron, Ms. Banahan stated that other counties would not have the same recourse to non-substantive review for the transfer of nursing facility beds within an Area Development District. She stated that the proposal had the support of several local government officials and legislators and that the driving force behind the proposal was primarily from the potentially affected local governments.

In response to questions by Senator Kerr, Ms. Banahan stated that the following legislators and local government officials supported the policy change: Senator John Schickel, Representative Dennis Keene, Representative Adam Koenig, Representative Sal Santoro, Representative Addia K. Wuchner, Boone County Judge-Executive Gary W. Moore, and Campbell County Judge-Executive Steve Pendery. She clarified that she did not have evidence that all members of the Kentucky General Assembly from the Northern Kentucky area supported this policy change.

Mr. Pendery stated that he supported the policy change because Boone County's population had doubled while Campbell County's population had remained relatively static. Boone County had an obvious need for more nursing facility beds as soon as possible so the counties were working together to address the bed shortages. The ideal solution would be to have additional beds for the whole area but that option wasn't available.

Mr. Earlywine stated that Northern Kentucky had growth-related infrastructure challenges including nursing facility access and that the region had been working on these issues cooperatively. He asked for this change to be supported as it provided the flexibility for the region to work together to solve problems.

Ms. Hinkle stated that these nursing facility beds had already been approved through the traditional Certificate of Need process and that this change would allow the beds to be transferred within a region, rather than only within a county. She stated that a competitor had the

opportunity to object to bed transfers. Additionally, problems had been documented with very large nursing facilities and smaller facilities provided better quality of care.

In response to questions by Representative Lee, Ms. Hinkle stated that reallocation of nursing facility beds had been approved by the cabinet and this Subcommittee in the past, although in smaller numbers. She stated that formal review should not apply because the beds were not new and had already received a Certificate of Need. She added that there was a precedent set by Franklin Circuit Court that these transferred beds did not need to go through the full Certificate of Need process again.

In response to questions by Co-Chair Tori, Ms. Hinkle stated that Carespring wanted to move forward using the nonsubstantive review process rather than the formal review process.

In response to questions by Senator Kerr, Ms. Hinkle stated that she believed financing for a new nursing facility was available, but the facility was ineligible for loan processing until a Certificate of Need had been issued.

Senator Givens stated his appreciation for the regional approach of Northern Kentucky local governments. He said that the Certificate of Need process seemed to be inadequate to meet the needs of Kentucky on a timely basis and the program clearly needed to be reviewed carefully.

In response to questions by Representative Ford, Mr. Pendery stated that Campbell County needed more nursing care facility beds but that Boone County needed them even more urgently. He stated that the entire region of Northern Kentucky needed beds but that it had been difficult to find an adequate site in Campbell County because of the geography and lack of adequate access to transportation hubs.

Mr. Long stated that allowing this policy change would put all other nursing facilities at a disadvantage. He stated that if the State Health Plan was amended to allow more nursing facility beds, there would be many applicants for those beds. He requested that all facilities be required to comply with the same requirements.

Mr. Wells stated that he believed that the policy change was unconstitutional because it established a special class of large nursing care facilities with special advantages regarding requirements. He stated that the administrative regulation would not be in compliance with statutory requirements for transfer within individual counties. He added that the

burden of proof regarding the need for the facility would be changed from the requirement that the facility prove its need through the established Certificate of Need process to a requirement that competitors prove that the facility is not needed.

Mr. Veno stated that this policy change, if accepted, should be made through the State Health Plan, not by amending 900 KAR 6:075. He stated that Northern Kentucky had a similar problem in the 1990s when a large nursing facility ceased operating and that it was determined then that the county by county transfer methodology should be preserved.

Ms. Banahan stated that this administrative regulation allowed for new psychiatric hospitals that would treat difficult-to-place children between the ages of four (4) and twenty-one (21) who exhibited physical aggression, sexual inappropriateness, or mental retardation or a developmental disability. She stated that the facilities would not be allowed to reject or eject a patient because of these behaviors. She added that the administrative regulation change would also allow rural areas to have such a facility.

In response to questions by Representative Lee, Ms. Johnson stated that 229 children had been placed in out-of-state nursing facilities because they were difficult to treat as a result of aggression, sexual inappropriateness, or other care challenges. She stated that it cost less to treat these children at out-of-state facilities than it did to treat them in Kentucky. She added that it was difficult to determine if out-of-state facilities had a lower level of care than Kentucky because it was not possible to compare licensure requirements between states. Kentucky does not have a licensure level between acute care and psychiatric residential treatment facility levels of care. The average length of stay was 452 days.

In response to questions by Senator Pendleton, Ms. Banahan stated that these facilities would be obligated to ensure that they would not reject or eject patients because of aggression, sexual inappropriateness, or other care challenges. She stated that, if such a facility did reject or eject a child, the facility would be out of compliance with its Certificate of Need.

In response to questions by Senator Givens, Ms. Banahan stated that the change to the difficult-to-place children provisions had resulted from the public comment process. The office elected to further amend the administrative regulation as a result of public comments requesting the provisions for difficult-to-place children. Ms. Johnson stated that this had been an ongoing issue and

a struggle for the cabinet. She stated that the office did not want to defer because now was the time to act. Ms. Banahan stated that there were out-of-state facilities that had expressed interest in establishing care in Kentucky for difficult-to-place children.

In response to questions by Co-Chair Tori, Ms. Johnson stated that because of the unstable economic climate, it was not possible to guarantee that Medicaid would pay the full cost of care for difficult-to-place children. She stated that the office needed to investigate how out-of-state facilities did this for less cost than Kentucky.

In response to questions by Senator Kerr, Ms. Banahan stated that if an in-state facility already had a Certificate of Need, it could choose to care for difficult-to-place children but that there currently were not facilities willing to do so. She stated that the amendment also provided an opportunity for rural areas that did not have a psychiatric hospital to establish one.

In response to questions by Co-Chair Combs, Ms. Johnson stated that the office could not raise reimbursement rates for existing providers and that they did not currently have plans to change the rate. She stated that the office had not investigated how the Department of Education provided for the educational needs of these children.

In response to a question by Senator Givens, Ms. Banahan stated that the office respectfully refused to defer consideration of this administrative regulation to the October meeting of the Subcommittee and did not agree to delete these provisions from this administrative regulation.

Ms. Eisner stated her concern regarding due process. She stated that she believed there had been a lack of due process. She further stated that this policy change would provide for nonsubstantive review for new facilities at the expense of those already in compliance with the State Health Plan. She added that the amendment discriminated against facilities that had gone through the existing Certificate of Need process and was not in accordance with the authorizing statutes. She stated that Kentucky needed a licensure program similar to those of other states and that Kentucky's special-needs children should not be placed out of state. Kentucky needs an intensive residential licensure category developed with adequate rates paid to providers.

Subcommittee staff stated that the Suggested Amendment approved by the Subcommittee changed the language in Section 2(2)(h)4. to clarify that the patient population "shall be limited to" children in the speci-

fied categories rather than including those children with the possibility of other patient populations.

Co-Chair Tori made a motion, seconded by Representative Lee, to find 900 KAR 6:075 as amended deficient. On a roll call vote, the administrative regulation was found deficient, with Co-Chair Tori, Senator Givens, Senator Kerr, Senator Pendleton, Co-Chair Combs, Representative Ford, and Representative Lee voting in favor of the finding of deficiency.

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Loan Program

11 KAR 3:100. Administrative wage garnishment. Diana Barber, general counsel, and Becky Gilpatrick, manager of the Student Aid Branch, represented the authority.

KHEAA Grant Programs

11 KAR 5:145. CAP grant award determination procedure.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:320. Permit requirements for manufacturers. Michael Burleson, executive director, 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, as required by KRS 13A.220; (2) to amend Sections 1 through 4 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to add a Section 7 to incorporate by reference the required materials. Without objection, and with agreement of the agency, the amendments were approved.

Board of Barbering: Board

201 KAR 14:105. Barbering school enrollment and postgraduate requirements. Karen Greenwell, administrator, and Noel Record, chairman, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) establish that a student shall not begin attending a barbering school until the student has filed the application and other required documentation with the school; (b) delete the ten (10) day deadline for the barbering school to report to the board; (c) provide that the barbering school may notify the board by email, fax, post, or hand delivery; (d) require the board to date stamp application submissions; (e) establish that the board shall notify the barbering school within two (2) business days of receiving the application docu-

mentation; and (f) establish that the board shall follow up with an official letter of enrollment to the barbering school and to the student; and (2) to amend Section 2 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:240. Fees for applications and for services. Nathan Goldman, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 3, 4, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:370. Applications for licensure and registration.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) 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.

201 KAR 20:411. Sexual assault nurse examiner program standards and credential requirements.

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 through 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS, AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers. Karen Alexy, director of the Wildlife Division, and Catherine York, deputy general counsel, represented the department.

ENERGY AND ENVIRONMENT CABINET: Department for Environ-

mental Protection: Division of Air Quality: New Source Performance Standards

401 KAR 60:005. 40 C.F.R. Part 60 standards of performance for new stationary sources. Lora Gowins, regulation development supervisor, and Ty Martin, environmental technologist, represented the division.

401 KAR 60:671. Repeal of 401 KAR 60:670.

JUSTICE AND PUBLIC SAFETY CABINET: Department for Kentucky State Police: Operations Division: Methamphetamine

502 KAR 47:010. Methamphetamine. Mark Mangeot, executive director of the Office of Legislative and Intergovernmental Services, and Morgain Sprague, attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Highways: Division of Planning: Traffic

603 KAR 5:230. The extended weight coal or coal by-products haul road system and associated bridge weight limits. Ann D'Angelo, attorney; Carol Brent, manager of the Administrative Branch; and David Steele, manager for bridge preservation, represented the department.

ENERGY AND ENVIRONMENT CABINET: Department for Energy Development and Independence: Division of Oil and Gas Conservation: Division

805 KAR 1:030. Well location and as-drilled location plat, preparation, form and contents. Kim Collings, director, and Marvin Combs, assistant director, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to 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 5 and 6 to delete vague provisions; and (4) to amend Sections 1 through 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.

805 KAR 1:070. Plugging wells; coal-bearing strata.

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

and STATUTORY AUTHORITY paragraphs to add 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 include a form; and (4) to amend Sections 1 through 6 and 8 through 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

805 KAR 1:140. Directional and horizontal wells.

In response to questions by Co-Chair Combs, Ms. Collings stated that the administrative regulation amended definitions to cross-reference terms that were already defined by statute. Mr. Combs stated that all requirements in this administrative regulation conformed with the authorizing statutes.

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 and 2 to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 1:200. Administrative fees and general information associated with oil and gas permits.

In response to questions by Representative Ford, Ms. Collings stated that the fifty dollar (\$50) fee was paid by the oil and gas operator. She stated that the fee was being changed now because it had been overlooked in the past.

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 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:150. Standards for insurers deemed to be in hazardous financial condition. David Hurt, chief financial examiner; John Love, manager of the Surplus Lines Program; and Tonya Parsons, director of Ken-

tucky Access, represented the department.

In response to questions by Representative Damron, Mr. Hurt stated that reserves to maintain solvency were adequate and were maintained so as to be adequate regardless of directives from the National Association of Investors Corporation.

A motion was made and seconded to approve the following amendments: (1) to amend the title of this administrative regulation to reflect the subject matter; (2) to amend the RELATES TO paragraph to add a statutory citation; 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.

Surplus Lines

806 KAR 10:030. Reporting requirement for broker's statement and surplus lines tax. John Love, manager of the Surplus Lines Program, and Tonya Parsons, director of Kentucky Access, represented the department.

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; and (3) to amend Section 4 to comply with the format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 10:050. Surplus lines affidavits.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph to insert a statutory citation. Without objection, and with agreement of the agency, the amendment was approved.

Health Insurance Contracts

806 KAR 17:230. Kentucky access requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 2 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.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:051. Repeal of 900 KAR 6:050. Carrie Banahan, executive director, represented the office.

900 KAR 6:055. Certificate of need forms.

A motion was made and seconded to approve the following

amendments: (1) to amend Section 2 to change the name of the form to specify that it also covers reductions in health services; and (2) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:060. Timetable for submission of certificate of need applications.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:065. Certificate of need application process.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 5, 7, and 10 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 2 to move cardiac catheterization from the January and July batching cycles to the May and November cycles. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:070. Certificate of Need considerations for formal review.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:080. Certificate of Need emergency circumstances.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:085. Transfers of Certificate of Need.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY para-

graphs to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:090. Certificate of Need filing, hearing and show cause hearing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:095. Certificate of Need administrative escalations.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:100. Certificate of Need standards for Implementation and biennial review.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a citation; and (2) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:105. Certificate of Need advisory opinions.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a citation; and (2) to amend Sections 1 and 2 to: (a) delete provisions regarding improvements; and (b) comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:110. Certificate of Need notification of the addition or establishment of a health service, or notification of the reduction or termination of a health service, or reduction of bed capacity, or notice of intent to acquire a health facility or health service.

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

paragraph to correct a typographical error; and (2) to amend Sections 2 to 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.

900 KAR 6:115. Certificate of Need critical access hospitals, swing beds, and certification of continuing care retirement communities.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to more accurately reflect the content of this administrative regulation; (2) to amend the RELATES TO paragraph to delete a citation; (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; and (4) to amend Sections 3 and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:120. Certificate of Need pilot projects.

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 Section 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Personnel Policies

907 KAR 3:183 & E. Supplemental payments to participating DRG hospitals. Elizabeth Johnson, commissioner; Kerry Harvey, general counsel; and Neville Wise, finance director, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 6 to: (1) comply with the drafting and format requirements of KRS Chapter 13A; and (2) correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the October 13, 2009, meeting of the Subcommittee:

PERSONNEL CABINET: Board

101 KAR 2:066 & E. Certification and selection of eligibles for appointment.

101 KAR 2:102 & E. Classified leave administrative regulations.

101 KAR 2:120. Incentive programs.

Personnel Cabinet, Unclassified
101 KAR 3:015 & E. Leave administrative regulations for the unclassified service.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Property

200 KAR 5:315. Debarment.

GENERAL GOVERNMENT CABINET: Kentucky Real Estate Commission: Commission

201 KAR 11:121. Improper conduct.

201 KAR 11:215. License recognition; application requirements.

201 KAR 11:250. Listing and purchase contracts and other agreements entered into by licensees; provisions required; seller-initiated re-listing request disclosure form.

201 KAR 11:450. Broker management course.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Solid Waste Facilities

401 KAR 47:090. Solid waste permit fees.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:031 Repeal of 701 KAR 5:035.

Food Service Programs

702 KAR 6:010. Local responsibilities.

702 KAR 6:020. District school nutrition director.

702 KAR 6:031. Repeal of 702 KAR 6:030.

702 KAR 6:040. Personnel; policies and procedures.

702 KAR 6:045. Personnel; school nutrition employee qualifications.

702 KAR 6:075. Reports and funds.

702 KAR 6:090. Minimum nutritional standards for foods and beverages available on public school campuses during the school day; required nutrition and physical activity reports.

Office of Chief State School Officer

702 KAR 7:125. Pupil attendance.

702 KAR 7:140. School district calendar.

ENERGY AND ENVIRONMENT CABINET: Department for Energy Development and Independence: Division of Oil and Gas Conservation: Division

805 KAR 1:190. Gathering lines. Kim Collings, director, and Marvin Combs, assistant director, represented the division.

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

paragraph to add statutory citations; (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 13(5) to clarify provisions; and (4) to amend Sections 1, 3, 11, 12, 15, and 16 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Ms. Collings stated that the agency wanted to defer consideration of this administrative regulation as amended to give the agency time to work on additional amendments. Without objection, and with agreement of the Subcommittee, this administrative regulation as amended was deferred to the October 13 meeting of the Subcommittee.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:391E. Repeal of 806 KAR 17:390, 806 KAR 17:400, 806 KAR 17:410, 806 KAR 17:420, and 806 KAR 17:430.

Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:004. Stewards.

Harness Racing

811 KAR 1:015. Race officials.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:125. Certificate of Need annual surveys, and registration requirements for new magnetic resonance imaging units.

The Subcommittee adjourned at 3:30 p.m. until October 13, 2009.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

October 13, 2009

The Government Contract Review Committee met on Tuesday, October 13, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw and Brad Montell.

Guests: Joel Neaveill, Diane Fleming, Fred Nelson, Joe Cowles, Bill Harris, Steve Byars, Angie Lawrence, Kerry Harvey, Paul Gannoe, Mike Hill, John Nicholson, Representative Reginald Meeks, Michael Childress, Sandra Hamon, and Todd Cassidy

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Sena-

tor Carroll to approve Minutes of the September 8, 2009 meeting of the committee. Senator Tori seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Morgan Franklin, LLC, 1000000360; Teddy Michael Prater, CPA, PLLC, 1000000361; Roderfer Moss & Company, PLLC, 1000000362.

CORRECTIONS, DEPARTMENT OF:

Criminal Justice Institute, 1000000344.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Potter & Company, LLP, 1000000212.

DEPARTMENT FOR MEDICAID SERVICES:

Brenda Parker, 0900012568.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Guardian Healthcare Providers, 1000000193.

DEPARTMENT FOR PUBLIC HEALTH:

Norton Healthcare Incorporated, 1000000482.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Kate Rickly Morgan, 1000000354; Whitney Asher Crowe, 1000000358; Judith J. Phillips,

1000000566.

EDUCATION, DEPARTMENT OF: The Riverside Publishing Company, 1000000325.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

CMTA Incorporated, 0900012741; CMTA Incorporated Consulting Engineering, 1000000152.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Henry Ford Community College, KCTPS424.

KENTUCKY LOTTERY CORPORATION:

OrderPad Software Incorporated, KLC1004073; M & S Works Incorporated, KLC10090082.

KENTUCKY STATE UNIVERSITY: Hensley, Elam & Associates, 1005.

MILITARY AFFAIRS, DEPARTMENT OF:

Horizons Medical Staffing, 1000000306.

MURRAY STATE UNIVERSITY: Porter Khouw Consulting Incorporated, 01410.

TRANSPORTATION CABINET:

Stantec Consulting Services Incorporated, 1000000389; Municipal Engineering Company, 1000000390; Palmer Engineering Company, 1000000423; Stantec Consulting Services Incorporated, 1000000578.

UNIVERSITY OF KENTUCKY:

M. LECO & Associates Incorporated, K10125; Koch Modular Process Systems, LLC, K10127.

WESTERN KENTUCKY UNIVERSITY:

The Regents of University of California, 091024; Linda Jensen Sheffield, 091028; Maria Gomez Garcia, 091031.

WORKERS CLAIMS, DEPARTMENT OF:

Wells Fargo Disability Management, 1000000162.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

URS Corporation, 0800008114.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Homeless & Housing Coalition of Kentucky, 0800007396; Project Unite, 0800008811.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Theracare Alliance, 0800006959; Res Care Incorporated, 0800007094; Staff Care Incorporated, 0800009391.

DEPARTMENT FOR NATURAL RESOURCES:

ATC Associates Incorporated,

0800011026.

DEPARTMENT FOR PUBLIC HEALTH:

Jane Mobley Associates, 0800009048.

DEPARTMENT OF INSURANCE:

William D. Clark, 0800008073; Neriette Eldridge, 0800008077; Melissa L. Johnson, 0800008079.

EASTERN KENTUCKY UNIVERSITY:

Perkins & Will Incorporated, 10001.

EDUCATION, DEPARTMENT OF:

Center for Family & Community Services, 0800008375; Stephen Couch, 0800008640.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

McGhee Engineering Incorporated, 0600002824; 5253 Design Group, 0700005726; EOP Architects, PSC, 0800011002; Architectural Investments, 0800011303; Sherman Carter Barnhart, C-05236910.

JUVENILE JUSTICE, DEPARTMENT OF:

Gateway Juvenile Diversion Project Incorporated, 0800008134; Methodist Home of Kentucky Incorporated, 0800008135.

KY STATE NATURE PRESERVES COMMISSION:

Kentucky Natural Lands Trust Incorporated, 0900011749.

MILITARY AFFAIRS, DEPARTMENT OF:

Andre O. Daigle, 0800011138.

NORTHERN KENTUCKY UNIVERSITY:

Goody Clancy, 2010511; Michael Schuster Associates, 2010514.

OFFICE OF HOMELAND SECURITY:

Hurt, Crosbie & May, PLLC, 0700004928; Stantec Consulting Services Incorporated, 0800008515.

PERSONNEL-OFFICE OF THE SECRETARY:

Mercer Investment Consulting Incorporated, 0900011436.

REAL ESTATE APPRAISERS BOARD:

Dennis Badger & Associates Incorporated, 0800010098.

TRANSPORTATION CABINET:

J M Crawford & Associates Incorporated, 0700003368; E A Partners, PLC, 0700003625; QK4, 0700004515; BTM Engineering Incorporated, 0700005851; Florence & Hutcheson, 0800007989; Palmer Engineering Company, 0800010340; TBE Group, 0800010437; HMB Professional Engineers Incorporated, 0900011452; Presnell Associates Incorporated, C-01051835-3; PB Americas Incorporated, C-01061016-3; Vaughn & Melton, C-03101454-1; Presnell Associates Incorporated, C-03349284-1; Municipal Engineering Company, C-04689746; Quest Engineers Incorporated,

C-05511374; Gresham Smith & Partners, C-06095496; H A Spalding Incorporated, C-99005052-6; HNTB Corporation, C-99005232-8; T H E Engineers Incorporated, C-99005458-3.

UNIVERSITY OF KENTUCKY:

GBBN Architects, A061080.

UNIVERSITY OF LOUISVILLE:

Multi, 08-081.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Auditor of Public Accounts, 1000000568.

CORRECTIONS, DEPARTMENT OF:

Fulton County Jail, 1000000496.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Bluegrass Regional Mental Health Mental Retardation, 0900012874; Justice Cabinet, 1000000190.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Finance & Administration Cabinet, 1000000157.

EDUCATION, DEPARTMENT OF:

Harlan Independent Board of Education, 0900012244; Hart County Board of Education, 0900012245; Henderson County Board of Education, 0900012247; Middlesboro Independent Board of Education, 0900012286; Pendleton County Board of Education, 0900012297; Covington Independent Board of Education, 1000000214; Greenup County Board of Education, 1000000219; Rowan County Board of Education, 1000000228; Anderson County Board of Education, 1000000233; Fayette County Board of Education, 1000000235; Central Kentucky Educational Cooperative, 1000000255; Fayette County Board of Education, 1000000261; Green River Regional Education, 1000000263; Menifee County Board of Education, 1000000370; Clay County Board of Education, 1000000453; Pike County Board of Education, 1000000462.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 0900012807.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Leslie County Board of Education, 1000000175; City of Harlan, 1000000266; McLean County Fiscal Court, 1000000267; City of Lewisburg, 1000000373; City of Greenville, 1000000394; Crittenden County Fiscal Court, 1000000395; Webster County Fiscal Court, 1000000396; Webster County Fiscal Court,

1000000399; Carlisle County Fiscal Court, 1000000400; City of Wheelwright, 1000000412; Hopkins County Fiscal Court, 1000000414; Boyle County, 1000000418; Ohio County Fiscal Court, 1000000419; Webster County Fiscal Court, 1000000420; Webster County Fiscal Court, 1000000421; Christian County Fiscal Court, 1000000469; Johnson County Fiscal Court, 1000000470; Laurel County Fiscal Court, 1000000471; City of Springfield, 1000000473; City of Barlow, 1000000492; Barren County Fiscal Court, 1000000493; Breathitt County Fiscal Court, 1000000514; Muhlenberg County Fiscal Court, 1000000520; Owsley County Fiscal Court, 1000000564.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

University of Kentucky Research Foundation, 0900012888; University of Kentucky Research Foundation, 0900012900.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Purchase Area Development District, 0900011874; Buffalo Trace Area Development District, 0900011883; Cumberland Valley Area Development District Agency, 0900011885; Fivco Area Development District, 0900011886; Gateway Area Development District, 0900011887; Kentucky River Area Development District, 0900011890-1; Northern Kentucky Area Development District, 0900011893.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Association of Sexual Assault Programs, 0800009592.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Barren County Board of Education, 0800006793; Green River Area Development District, 0800006794; American Red Cross Louisville, 0800006795; Jefferson County Board of Education, 0800006797.

DEPARTMENT FOR MEDICAID SERVICES:

Kentucky Housing Corporation, 0800008756.

EDUCATION, DEPARTMENT OF:

Boyd County Board of Education, 0800007944; Jefferson County Board of Education, 0800008315; Jenkins Independent Board of Education, 0800008317; Knox County Board of Education, 0800008318; Metcalfe County Board of Education, 0800008330; Monroe County Board of Education, 0800008332; Morgan County Board of Education, 0800008335; Williamsburg

Independent Board of Education, 0800008367; Cumberland County Board of Education, 0800008826; Leslie County Board of Education, 0800010444; Jessamine County Board of Education, 0800010781; Department for Public Health, 0900011480; Madison County Board of Education, 0900011750; Jefferson County Board of Education, 0900011758; Madison County Board of Education, 0900011769; Madison County Board of Education, 0900011784; Fayette County Board of Education, 0900012340; Madison County Board of Education, 0900012427.

JUSTICE CABINET:

Operation UNITE, 0900012892.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 0900012807.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Muhlenberg County Fiscal Court, 0600002937; McCreary County Educational Development Foundation, 0600003062; City of Campbellsville, 0600003107; Madison County Fiscal Court, 0700003140; City of Lebanon, 0700003355; Cumberland County Fiscal Court, 0700003658; City of Livingston, 0700004364; Knott County Water & Sewer, 0700006197; Knott County Water and Sewer, 0700006261; City of Campbellsville, 0800007141; Knox County Board of Education, 0800010051; Knott County Tourism Commission, 0800010064; Floyd County Fiscal Court, 0800010846; Floyd County Fiscal Court, 0800010847; Floyd County Fiscal Court, 0800010850; Floyd County Fiscal Court, 0800010859; City of Barbourville, 0800011109; Floyd County Fiscal Court, 0900011433; City of Mount Vernon, 0900012443; Knott County Fiscal Court, 0900013097; City of Horse Cave, M-05445445; Muhlenberg County Fiscal Court, M-06042729-1.

POST SECONDARY EDUCATION, COUNCIL ON:

Northern Kentucky Education Cooperative, 0800010366.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

GOVERNORS OFFICE OF AGRICULTURAL POLICY:

Goldberg Simpson, LLC, 1000000259. Joel Neaveill and Diane Fleming discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Gibson seconded the motion, which passed unanimously.

PERSONNEL-OFFICE OF THE SECRETARY:

First Onsite, LLC, 0900011834. Fred Nelson and Joe Cowles discussed

the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed with Representative Montell electing to abstain (pass).

UNIVERSITY OF KENTUCKY:

Bond, Schoeneck, & King, PLLC, K10126. Bill Harris and Steve Byars discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Montell seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MEDICAID SERVICES:

Health Management Systems Incorporated, 0800008074. Angie Lawrence and Kerry Harvey discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Hastings & Chivetta Architects, 0700004255. Paul Gannoe discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

TRANSPORTATION CABINET:

GRW Engineers Incorporated, 0700004081; Quest Engineering Incorporated, 0700004974. Mike Hill and John Nicholson discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR \$10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

KENTUCKY LONG TERM POLICY RESEARCH CENTER:

Doug Henton, Collaborative Economics Incorporated, KLTPRC1001. Representative Reginald Meeks and Michael Childress discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed with Senator McGaha voting NO.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF:

Henry County Board of Education, 0900012823. Saundra Hamon discussed the contract with the committee. A motion was made by Senator Gibson to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

THE FOLLOWING FILM TAX INCENTIVE AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

TOURISM DEVELOPMENT CABINET:

Fast Track Productions Incorporated, 1000000562. Todd Cassidy discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:37 AM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

September 10, 2009

The Program Review and Investigations Committee met on Thursday, September 10, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators R.J. Palmer II, Joey Pendleton, Dan "Malano" Seum, and Katie Kratz Stine; Representatives Dwight D. Butler, Rick G. Nelson, Ruth Ann Palumbo, Rick Rand, Arnold Simpson, and Ken Upchurch.

Guests: Connie M. Payne, Executive Officer, Drug Courts; Patrick Yewell, Executive Officer, Department of Family and Juvenile Services; Administrative Office of the Courts. Honorable Anthony W. Frohlich, Chief Circuit Judge and Conducts Drug Court for Boone and Gallatin Counties. Mike Burnside, Executive Director, Kentucky Retirement Systems. Gary L. Harbin, Executive Secretary, Teachers' Retirement System of Kentucky.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Rkia Rhrib; Sarah Spaulding; Katherine Thomas; Stella Mountain, Committee Assistant.

Connie Payne, Executive Officer of Drug Courts, Administrative Office of the Courts, updated the committee on adult drug court programs. She said that since September 2007, 14 new drug courts have been implemented; participants in

the adult programs increased from 1523 to 2308; 29 team trainings were provided across Kentucky; and the Management Information System was modified to comply with Recommendation 2.1 of Program Review's 2007 report. In response to other recommendations from the report, she said the program has applied for a grant with the National Center on State Courts to assist in developing performance measures, and treatment funding increased from \$2.3 million to \$3.7 million.

Representative Meeks asked about the increased number of individuals in drug courts, the number of drug courts, what counties do not have drug courts, and what the plan is for those counties.

Ms. Payne said the increase in participants in the adult programs is due, in part, to the 14 new programs that were implemented with funding from the General Assembly in 2006. She said two jurisdictions, Boyle/Mercer and Carroll/Grant/Owen, do not have drug courts. She said some judges and prosecutors have concerns about the court system changing from an adversarial system to the more problem-solving system used in drug courts. In the counties without drug courts, judges have expressed these concerns – a concern she respects. She said the program will work with new judges to see if they do accept the drug court philosophy and would be interested in pursuing the program.

Senator Schickel said that he agrees with the concern about the blending of social work and the judiciary. He said that he is supportive of the programs, but it is important that the rule of law and the traditional adversarial role of the court system are respected. He asked what Ms. Payne would say to those who have this concern.

Ms. Payne said that all drug court participants are post-plea, and the legal issues that are normally attached to cases have all been resolved. In FY 2009, 70 percent of the participants entered through probation and 30 percent through diversion. Sentencing is postponed until drug court is completed. Once drug court is completed, or if a participant has not been successful and is terminated from the program, the participant receives a normal probation revocation hearing. If a participant entered through felony diversion and is not successful, the participant returns to a regular criminal court process for the full sentencing to occur.

Senator Schickel asked whether there is any incentive for a person to participate in the program rather than pleading not guilty.

Ms. Payne said that when someone enters drug court through pro-

bation and completes the program successfully, they encourage that probation time left be on conditional discharge status rather than requiring the participant to return to the probation officer on a regular basis. Those on diversion who successfully complete drug court have their cases dismissed. She said other incentives are an alcohol- and drug-free life and not being in and out of the criminal justice system on a regular basis.

Upon motion made by Representative Meeks and seconded by Senator Seum, the minutes of the August 13, 2009 meeting were approved by voice vote, without objection.

Patrick Yewell, Executive Officer of the Department of Family and Juvenile Services, Administrative Office of the Courts, said Family and Juvenile Drug Courts provide resources, oversight, and judicial leadership to families. He said there are 8000 children in Juvenile Justice, of which 6000 were involved with child welfare before. He said 71 percent of all child abuse cases result from substance abuse; 80 percent of children in foster care have parents involved in substance abuse; and 95 percent of the families of juveniles in Juvenile Drug Court have been involved with the child welfare system.

Mr. Yewell said only 5 percent of the juveniles who have been involved with Juvenile Drug Court over the last 3 years have re-offended with substance abuse charges. He said the Family and Juvenile Drug Courts are successful because participants are being held accountable and have judicial leadership.

Representative Meeks asked how they collect the data that shows that only 5 percent of juveniles who have been involved with Juvenile Drug Court re-offend.

Mr. Yewell said they collect that data through their own court data system.

Representative Meeks asked for clarification about first dealing with the issues that dysfunctional families face and thereby preventing children from such families of having to deal with issues later.

Mr. Yewell said when dealing with juveniles who have committed an offense, they take a holistic approach with prevention, education, accountability, and treatment.

Representative Meeks asked how much money could be saved by dealing with dysfunctional family issues early versus waiting to deal with juvenile issues later.

Mr. Yewell said their program costs about \$3000 per year per juvenile. It costs the Department of Juvenile Justice an estimated \$58,000 per year to house a juvenile.

Honorable Anthony Frohlich, Chief Circuit Judge, who conducts

drug courts for Boone and Gallatin Counties, said funding for his program started on July 1, 2007. He said the word “hope” describes what drug court has meant to participants. He said the criminal justice system at times can be despairing and he compared it to an ongoing, revolving door. He said that drug court works. Judge Frohlich mentioned two cases of people who went through the program successfully, had their lives changed by it, and who are now positively contributing to society.

Judge Frohlich said his drug court team consists of the Commonwealth’s attorney, someone from the Public Defender’s Office, his probation and parole district supervisor, a member of the Boone County Sheriff’s Office, the circuit clerk, a member of the Boone County jail team, a treatment advisor, another judge in his jurisdiction, the drug court supervisor, and staff. He said everybody is treated as an equal on the team and they have a free exchange of ideas with the goal of rehabilitating people.

Judge Frohlich said that funding is a problem. He said it took 3 years to get funding for his jurisdiction, and they are still underfunded. He said the Campbell County, Kenton County, and Boone County jurisdictions share services and staff but still have a long waiting list for drug court participants.

He mentioned one person who was eligible to get into drug court but would have had to wait 6 to 9 months to get in. He chose to wait in jail to get into drug court, even though that meant he was not eligible for other jail programs, because he saw how well the program worked for others and he wanted to be drug-free.

Senator Stine commended Judge Frohlich for his work. She said dealing with the substance abuse issue could cut down on other problems like prison overpopulation. She asked for clarification on the programs that people would forfeit if they wait to get into drug court.

Judge Frohlich said they would not be able to get into work programs, be a trustee, or get a better bed.

Representative Simpson asked whether there is any way of removing a Class D felony from a person’s record if that person goes through drug court successfully.

Judge Frohlich said the only expungement of a criminal record is for possession of certain drugs and completing the period of probation, but under KRS218.A, such expungement is only for certain types of drugs and it has to be a possession case.

Representative Simpson asked whether Judge Frohlich continues to

have contact with individuals who have successfully completed the program and are drug-free.

Judge Frohlich said once they go into drug court, the 5-year probationary period starts all over again. It takes about 18 months to get through the program. After they have completed the program, they are still on probation and are usually conditionally discharged for the rest of that period of time.

Representative Simpson asked whether Judge Frohlich had heard of people who successfully completed the program but were unable to re-establish their lives because of their felony records.

Judge Frohlich said their crime follows them; it does not get expunged and it inhibits their ability to get jobs later.

Representative Simpson commended Judge Frohlich and his colleagues in Kenton County and Campbell County for working together across county lines.

Representative Rand asked Judge Frohlich to discuss the burden on other family members who are trying to help the person meet the requirements of drug court.

Judge Frohlich agreed that drug court is tough, but that participants have to learn to become more diligent, more mentally tough, and more self-sufficient.

Representative Rand asked what percentage of people who are eligible for drug court can be accommodated.

Judge Frohlich said they have a large waiting list and there are many people who should be in drug court that are not getting into drug court because there are no funds.

Senator Seum said legislators ought to address expungement. He mentioned two cases of people who cannot get jobs because of a non-violent crime on their record.

Judge Frohlich agreed with Senator Seum that expungement should be an option. He said he gets motions to expunge records but he does not have the power to do so. He added that participants in drug court have to pay all their restitution to complete the program.

Representative Simpson mentioned that he has pre-filed an expungement bill.

Senator Stine said it would be helpful to determine the cost savings of drug courts. She said drug court works, is saving money, and needs to be funded more.

Ms. Payne said drug court costs \$5,100 for a participant to go through the program as opposed to a prison cost of \$18,000. There is a savings of more than \$43 million for all of the graduates who have gone through the program. That number does not

take into consideration the \$3.8 million in restitutions, fines, and fees that have been collected since the program’s inception. She said one of the recommendations from the 2007 Program Review report was to do another cost benefit analysis but AOC has not received a grant for this.

Senator Stine said they need to find the money and that she would like to have available information for the upcoming session.

Ms. Payne said she would get that information to everyone.

Representative Rand asked Judge Frohlich whether Representative Simpson’s bill on expungement of record would be useful.

Judge Frohlich said drug court judges would love to see such a bill.

Mike Burnside, Executive Director of the Kentucky Retirement Systems, and the System’s Chief Investment Officer, Adam Tosh, updated the committee on investment results for FY 2009. Mr. Tosh reviewed the systems’ allocations to different categories of investments. He said the overall return for the pension fund was negative 17 percent for the year. Other than U.S. Treasury Bonds and cash, returns for asset classes declined worldwide. He said that given the state of the economy, KRS returns were better than other systems that were down 25 to 30 percent.

Representative Simpson asked for clarification of the performance benchmarks used by KRS.

Mr. Tosh said that they take a weighted average of their holdings such as U.S. and international stocks, fixed income, and bonds. A benchmark is an industry-wide standard that represents that neutral position for a portfolio.

Representative Simpson asked when they establish benchmarks.

Mr. Tosh said the system’s benchmarks have been in place for many years.

Representative Simpson asked whether all pension funds establish their own benchmarks.

Mr. Tosh said there is no uniform measure. Many organizations use similar benchmarks but there is no one-size-fits-all measure.

Mr. Tosh said the KRS Insurance Fund’s portfolio was structured to take more risk because insurance is less funded than the pension fund. The insurance portfolio has more risk; about 77 percent of the insurance fund is invested in equity or equity-like instruments. Because of what has happened in the stock market, the insurance fund has not performed well.

Representative Simpson expressed his concern that both pension funds do not report regularly to any legislative committee. He asked the Chair to note his request

for some type of regular oversight of both pension funds.

Senator Schickel said he would take note of it and he agreed that the pension plans should report to a committee regularly.

Representative Rand asked when benchmarks are put in place.

Mr. Tosh said benchmarks are established at the beginning of an investment period and are a carry-over from benchmarks established years ago. He said the benchmark is established by taking the weights of their expected targets and the published indexes and taking a weighted average of those. If they make modifications to their investment targets, either by adding a new asset class or by not investing in a class anymore, those modifications need to be taken in and out of the benchmark. Benchmarks are a representation of what the system has invested in and they are a reflection of what happened to those investments.

Representative Rand agreed with Representative Simpson that the pension funds should report to an appropriate committee. He asked what the deficit is at the moment.

Mr. Burnside said at the end of last fiscal year the two pension plans’ combined deficit was approaching \$30 billion. He said that probably will grow this year.

Senator Schickel asked whether they are still in a negative cash flow situation.

Mr. Tosh said that is correct. A negative cash flow situation means that more money is spent on benefits and expenses than is coming in through contributions.

Mr. Burnside said this characteristic is not unique to Kentucky; pension systems across the United States are in this situation.

Senator Stine asked the Chair to invite officials from the Finance and Administration Cabinet to the committee’s next meeting to review their report on Kentucky Retirement Systems’ Holly Hill Land Purchase.

Representative Simpson asked the chair to consider asking the KRS officials to make their presentation on the Holly Hill purchase at the next meeting as well.

Mr. Burnside proceeded with his presentation on actuarial projections and how they will impact the upcoming budget cycle. He said the numbers are preliminary.

Mr. Burnside said that using the phase-in schedule in House Bill 1, KERS non-hazardous contributions from employers would increase from 11.5 percent to 16.04 percent in FY 2011, and in FY 2012 would increase to 18.6 percent, which is paying the 44 percent and 48 percent of the annual required contribution in House Bill 1. He said the increases are not

as dramatic for the KERS hazardous contributions because those systems are better funded; they will increase from 24.69 percent to 25.43 percent in FY 2011. He said State Police has the most dramatic increase, from 33.08 percent to 51.7 percent, to comply with requirements in House Bill 1. He said the CERS projections are not available yet.

Senator Schickel asked Mr. Burnside to come back to the next meeting to present his report on the Holly Hill Church transaction.

Mr. Harbin, Executive Secretary of the Teachers' Retirement System of Kentucky, updated the committee on the investment performance of the system. He said the system is now in the top 5 percent of all pension plans in the U.S. over the past year in its investment performance; the top 21 percent over the past 2 years; and the top 23 percent over the past 3 years. He noted that returns for different asset classes have been outperforming their indices.

He said that since March 31, 2009, the system has added \$1.8 billion in value and the market value of assets as of July 31 was \$12.4 billion.

Representative Simpson asked whether they have met their benchmarks relative to that time period and how they are performing in comparison to the benchmarks that they have established.

Mr. Harbin said they have exceeded their benchmarks in each of those periods. He said the reason that the system outperformed the other public pension plans and the benchmarks is because of the level of risk that the system has taken. They avoided a number of the major problems that occurred in the market.

Representative Meeks asked Mr. Harbin to identify where they did have losses.

Mr. Harbin said the declines in the market value occurred because the markets declined.

The meeting was adjourned at 12:20pm.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

October 8, 2009

The Program Review and Investigations Committee met on Thursday, October 8, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Reginald Meeks, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators Vernie McGaha, R.J. Palmer II, Joey Pendleton, Dan "Malano" Seum, Bran-

don Smith, and Katie Kratz Stine; Representatives Leslie Combs, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Robert Jones, Executive Director, Office of Policy and Audit, Finance and Administration Cabinet. Mike Burnside, Executive Director; William A. Thielen, Chief Operations Officer; Kentucky Retirement Systems.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Rkia Rhrif; Sarah Spaulding; Katherine Thomas; Cindy Upton; Stella Mountain, Committee Assistant.

Upon motion made by Representative Combs and seconded by Senator Palmer, the minutes of the September 10, 2009 meeting were approved by voice vote, without objection.

Robert Jones, Executive Director, Office of Policy and Audit, Finance and Administration Cabinet, said he started his job in December 2007 and soon received a request for an audit of the Holly Hill land purchase. The audit took 12 to 16 months. He began with interviews of Mr. Burnside and the Kentucky Retirement Systems' (KRS) counsel. All the information he gathered was voluntary. He noted that the chief information officer (CIO) and chief operations officer (COO) at the time of the Holly Hill transaction were not interviewed.

Representative Meeks asked why they were not interviewed.

Mr. Jones said they did not respond to requests for information. He said that Perimeter Park West (PPW) is a corporation set up to acquire and hold land purchases on behalf of KRS. He summarized the background of the purchase, including information that KRS's property manager and the head of the recommended realty firm were father and son, respectively. He said that the investment committee discussed the transaction in a closed meeting on December 15, 2005, including a memo from the COO and CIO. The memo said the potential cost was \$475,000 to \$700,000. He said there was no documentation as to whether making the purchase for this amount was approved, but the CIO and COO proceeded as if it were.

Mr. Jones said that Dr. Caroline Bevins-Taylor, a veterinarian, exercised her option to purchase the Holly Hill property. KRS offered her \$525,000 for the property, which she rejected. A second offer of \$700,000 made a month later was accepted. Checks for \$700,000 and \$52,502.47 were requested from PPW funds. Only the CIO and COO and the person writing the checks knew that the

total amount was over \$700,000.

Senator Stine asked for clarification of the payout.

Mr. Jones said the HUD settlement document included \$700,000 for the contract sales price, \$25,000 for personal property, \$28,000 for brokerage fees and settlement charges, and \$500 for filing fees.

Senator Stine asked for clarification of the \$25,000 for personal property.

Mr. Jones said it is unknown what the personal property could have been.

Senator Stine asked about who the insurance fund covers.

Mr. Jones said the insurance fund is intended for retirement system members and not for alternative investments. He said the money for the Holly Hill purchase should have come from an investment account.

Senator Seum asked if KRS is part of state government.

Mr. Jones said in his opinion yes, but there can be legal arguments about this.

Senator Seum asked if KRS employees are held to executive branch ethics rules.

Mr. Jones said that this was unclear.

Senator Stine asked whether state cabinets purchase property through other state agencies or on their own and how it is determined if a state agency needs more space.

Mr. Jones said it depends on the cabinet. He said that KRS had previously purchased its own property.

Senator Stine asked if KRS could purchase their own vehicles.

Mr. Jones said he did not know.

Representative Meeks asked if a thorough investigation could be completed without testimony from the CIO and COO.

Mr. Jones said he would also include the executive director on that list. He said all three are beyond the reach of the Finance and Administration Cabinet.

Senator Pendleton asked what the reason was for the purchase.

Mr. Jones said KRS wanted more space without giving up existing rental space. The property was conveniently located next door and was thought to be a good investment.

Senator Pendleton said that if it was bought for a revenue stream, he wanted to know why it was eventually sold for \$325,000.

Mr. Jones said they found out the property could not be used as intended and the market value was much less than what was paid. They did not get an appraisal at the time of purchase.

Senator McGaha asked why they could not use the property.

Mr. Jones said it was probably related to zoning and asbestos

abatement.

Senator McGaha asked if anyone checked the zoning before the purchase.

Mr. Jones said that there was no onsite inspection before purchase.

Representative Simpson asked whether state government is exempt from zoning.

Mr. Jones said he did not know.

Returning to his presentation, Mr. Jones noted that he adopted the findings of the internal audit. The internal audit included concerns regarding the issuance of checks. The person writing the check should not be under direct authority of the buyer. He said only one signature was required; there should have been two, of which at least one should be out of the direct line of authority. The internal audit raised concerns related to letters of direction. A new account was created by the Northern Trust Company by authority of only one person. He said this and the practice of requiring only one signature put KRS at risk. There was a concern about the line of authority; it was unclear what the executive committee had approved.

Mr. Jones said he agreed with the conclusions of the internal audit report, but his report also emphasized lack of sufficient procedures and oversight at KRS. He said the board and investment committee were also responsible for what had happened.

Senator Stine asked about the letters of direction.

Mr. Jones explained that the letters of direction were addressed to the Northern Trust Company to create a new account.

Senator Stine asked if there were other instances in which this had been done.

Mr. Jones said this was the only transaction he looked at, so he was not sure.

Senator Stine asked if KRS management knew that all this was going on.

Mr. Jones said he relied on the internal audit report, which said they did not know all that was happening.

Senator Stine asked if anyone checks on the work of the internal auditor.

Mr. Jones said no, the auditor was not audited.

Senator Stine asked if regular audits of KRS were done and who reviews them.

Mr. Jones said the state auditor does and others may as well.

Senator Stine asked about referrals made to the Kentucky State Police (KSP), the Office of the Attorney General, and the State Auditor.

Mr. Jones said he thinks the State Auditor was contacted at one point. Then, KSP was contacted and

took over the investigation. It was not turned over to the attorney general.

Senator Stine asked if KSP bought the building.

Mr. Jones said yes.

Senator McGaha asked when the referral to the state police was made.

Mr. Jones said it was July 5, 2006 according to the chronology provided by KRS.

Senator McGaha asked when KSP bought the building and what it is used for.

Mr. Jones said KSP purchased the building at the end of 2008 or the beginning of 2009. He did not know the use of the building.

Representative Simpson asked about KRS's insurance claim.

Mr. Jones said his understanding was that the claim was rejected. He did not receive some documents related to this based on the argument of attorney-client privilege.

Representative Simpson asked about any attempt to recoup funds from individuals involved for loss of money in the transaction.

Mr. Jones said none that he knew of.

Senator Stine asked about the findings from the Auditor of Public Accounts on the tax issue related to commingling of funds.

Mr. Jones said he was told by the fiduciary counsel that it was not necessary to report. He made no conclusions about it because there was no documentation presented to him. Mr. Jones said he did not know if this was an issue with the Internal Revenue Service.

Senator Stine asked if PPW board members are members of the KRS board.

Mr. Jones said yes.

Mr. Burnside began his presentation on the Holly Hill Church transaction. He noted that he has been the executive director of KRS since January 2008 and all senior staff are new since the transaction occurred.

Mr. Burnside said the justification for the purchase was for expansion of office space, to replace the existing building with new construction for KRS's use, or to lease or sell the property. He said KRS purchased the property on February 7, 2006 from Dr. Bevins-Taylor through PPW. He said \$700,000 was transferred from the insurance trust, which was improper because the insurance trust is to be used for insurance only. The money was commingled with pension funds.

Mr. Burnside said that in March 2006, the KRS board began an investigation of the purchase. They contacted Ice Miller as outside fiduciary/tax counsel. The internal auditor, the Auditor of Public Accounts, Mount-

joy & Bressler (an external auditing firm), and KSP were contacted. They also asked outside litigation counsel Stoll Keenon Ogden whether litigation was in order regarding a fiduciary insurance claim.

Mr. Burnside said the investigation continued through July 2007. There were numerous KRS board and committee meetings. Ice Miller issued reports in May and August 2006, Stoll Keenon Ogden reported in August 2006, and Mountjoy & Bressler, on behalf of Auditor of Public Accounts, reported in December 2006. The internal audit report was completed in April 2007.

Representative Meeks asked about the KSP investigation.

Mr. Burnside said his information is that KSP did not have evidence for criminal action and, therefore, did not submit a report.

Mr. Burnside summarized the audit findings of Mountjoy & Bressler: KRS staff circumvented existing internal control policies and procedures, KRS staff failed to perform adequate due diligence, the commingling of funds between insurance and pension trusts was a violation of the Internal Revenue Code and the KRS Plan Document, and the circumstances were an isolated incident.

Mr. Burnside said the internal auditor recommended that the PPW operating account should require two authorizing signatures; that the business operations of PPW should be under the oversight of the chief of operations; that checks issued from PPW should require a formal check request document and all supporting documentation; and that general counsel should provide training to PPW agents on the bylaws, conflicts of interest, and their fiduciary obligation. He said all recommendations have been fully implemented. He added that the bylaws have been modified to require quarterly meetings of the PPW board and that the board makes regular reports to the board of trustees. He said the KRS board recently added a third member to the PPW board of directors.

He noted that there was a previous question about KRS being bound by the executive branch code of ethics. He said that it was.

Mr. Burnside said that the internal auditor recommended that KRS PPW should re-evaluate its contractual relationship with the Crumbaugh Companies. He said that KRS staff knew about the familial relationship between the PPW property manager and the Summit Realty agent. There was no evidence that this was known by the board. He said Mr. Crumbaugh, the property manager, was not covered by the executive branch code of ethics based on a letter requesting determination. He said that a request

for proposals had been issued for property management services. The Crumbaugh Companies, which had been hired under a sole-sourced contract, got the new contract because it was the best evaluated bid.

Mr. Burnside said another recommendation of the auditor was that the PPW board of directors should require evidential matter for all assets acquired. This has been fully implemented by KRS. He noted there was no real estate contract or other documentation for the \$25,000 personal property.

Mr. Burnside said that the internal auditor recommended that \$52,502.47 should be reimbursed to the PPW operating account; all employees, particularly those in the Division of Investments, should comply with KRS' Statement of Investment Policy; formal documentation of check/expenditure requests should be formulated to strengthen internal controls; and that all letters of direction should be reviewed, approved, and signed by the CIO, the executive director, and/or the COO. All four items have been implemented by KRS. Mr. Burnside said the internal auditor also noted that KRS is prohibited from commingling funds from the insurance and pension funds. He said this is fully implemented. The matter was taken up by Ice Miller, which is to report to the board of trustees. He said handling of this will be covered in the annual financial report.

Mr. Burnside said the internal auditor recommended that the CIO should have dual reporting responsibilities to the investment committee and to the executive director, which would require a change to policies. He said bylaws had been changed so that the CIO reports to the executive director and the investment committee.

He said as the audits were being conducted, KRS contacted the Finance and Administration Cabinet about the marketing of the Holly Hill Church and Building B properties. He said KSP eventually agreed to purchase Building B and the church property for \$3.2 million.

Mr. Burnside noted that, after the completion of the audit by the Finance and Administration Cabinet auditor, he asked the Auditor of Public Accounts if further audits were needed. He said that the state auditor had sent a letter saying that no further action from that office was needed at this time.

Mr. Burnside said that the Finance and Administration Cabinet auditor recommended that KRS should use the Holly Hill proceeds to reimburse the KRS Insurance Fund for an amount no less than \$135,000 and to follow the recommendation

of the KRS Internal Auditor to reimburse PPW for \$52,502.47. He said the board of trustees has voted to reimburse the account with \$700,000 plus interest.

Mr. Burnside said that the Finance and Administration Cabinet auditor recommended that KRS should clearly disclose the decision to self-correct the commingling of assets related to Holly Hill and the subsequent loan write-down in the notes to the KRS and PPW financial statements. Mr. Burnside said that KRS staff has drafted and the audit committee has approved language for the 2009 Comprehensive Annual Financial Report to fully comply with this recommendation.

Mr. Burnside said that the Finance and Administration Cabinet auditor recommended that KRS should formalize its real property purchasing process and that KRS and PPW should implement and/or continue the implementation of all internal controls recommended herein and in the KRS Internal Audit Report. KRS has fully implemented both recommendations.

In conclusion, Mr. Burnside said that the KRS executive management team has changed through resignations, transfers, or retirements, and that six of the nine trustees of KRS have changed since the Holly Hill transaction.

Senator Seum asked about investigations by KSP, the attorney general, the Internal Revenue Service, and possible civil action.

Mr. Burnside said there is no investigation that he knows of. The outside litigation counsel has communicated to the board regarding civil action and a decision is forthcoming. The insurance claim is yet to be settled; it is unclear whether there is any final loss to settle.

Senator McGaha asked how selling Building B and the church property is consistent with the initial reason to purchase property for more space.

Mr. Burnside replied KRS was able to modify existing space to meet its needs. No space analysis was originally done.

Senator McGaha asked for clarification of the purchase of the property.

Mr. Burnside said that KSP had purchased both Building B and the church property. A formal appraisal was done before the sell. He said 10% of the purchase price was assigned to the Holly Hill property (\$325,000).

Senator McGaha asked about the zoning of the property.

Mr. Burnside said that the property was zoned for governmental use and passed on to KSP as governmental zoning when KSP purchased the property.

Senator McGaha clarified the reimbursement process and asked if that resulted in money still being lost on the deal.

Mr. Burnside said yes.

Senator McGaha asked about Mr. Crumbaugh's role as property manager.

Mr. Burnside said Mr. Crumbaugh gets a percentage of gross rent to perform property management and maintenance.

Senator McGaha questioned the justification for rehiring Mr. Crumbaugh.

Mr. Burnside said that the father/son relationship was known to KRS staff at the time. He said Mr. Crumbaugh has done an excellent job as property manager. Mr. Burnside said, based on his own experience at the Finance and Administration Cabinet, Mr. Crumbaugh did nothing that would bar him from future state contracts.

Representative Simpson said that current KRS management cannot be responsible for past actions, but the executive director and the board are responsible for pursuing the insurance claim to recoup losses. He said there is a financial loss for the transaction plus the time and money to deal with it. He asked when the insurance claim was filed.

Mr. Burnside said the claim was filed in September or October 2006. He said there had been a series of letters between the insurance company and KRS officials. The claim has not been rejected.

Representative Simpson asked if KRS is still using the same insurance company.

Mr. Thielen said the only state bidder for fiduciary insurance is Chubb, the company that KRS uses now.

Representative Simpson asked if there is any estimate of the total loss.

Mr. Burnside said no.

Representative Simpson asked if the insurance claim would be for an amount above the financial loss.

Mr. Burnside replied that this is up to the board.

Representative Simpson said he would be interested in a supplemental report on what happens with the insurance claim.

Representative Meeks asked for clarification of the loss.

Mr. Burnside said, in overall value, there was a loss. However, since Building B and Holly Hill were sold together, it is difficult to ascribe loss to one particular property.

Senator Stine asked whether the insurance agency could pursue the individuals responsible.

Mr. Burnside said yes, but the individuals are covered by KRS's insurance. This matter is being discussed

by the board.

Senator Stine asked why KRS owns its own buildings and state agencies do not.

Mr. Burnside said KRS is a quasi-governmental organization and not bound by the state procurement code.

Senator Stine said maybe KRS should be. She asked whether PPW board members receive remuneration.

Mr. Burnside said they get per diems and allowances for travel.

Senator Stine said that there should be oversight of KRS by a legislative committee.

Representative Meeks asked for clarification on the insurance claim being filed in 2006 but not being rejected yet. He asked what the plan was to resolve this.

Mr. Burnside said they could not determine the final loss until the property was sold.

Representative Meeks said the co-chairs would explore options for oversight and that input from committee members would be welcome.

Senator Schickel agreed with this.

Representative Meeks directed Mr. Burnside to provide to the committee, in response to Representative Simpson's request, information on the amount and details of the loss from the Holly Hill transaction.

The meeting was adjourned at 12:25 p.m.

POVERTY TASK FORCE Minutes of the 1st Meeting of the 2009 Interim September 21, 2009

The 1st meeting of the Poverty Task Force was held on Monday, September 21, 2009, at 1:00 p.m., in Room 154 of the Capitol Annex. Representative Greg Stumbo, Co-Chair, called the meeting to order at 1:07 p.m., and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Dan "Malano" Seum, Robert Stivers II, Elizabeth Tori, and Johnny Ray Turner; Representatives Linda Belcher, Dwight D. Butler, Leslie Combs, C. B. Embry Jr., Kelly Flood, Jim Glenn, Keith Hall, Richard Henderson, Melvin B. Henley, Mary Lou Marzian, Fred Nesler, Kevin Sinnette, Kent Stevens, Ken Upchurch, Alecia Webb-Edgington, and Addia Wuchner.

Guest Legislator: Representative Tom Burch.

Guests: Dr. James P. Ziliak, Director, Center for Poverty Research, Gatton Endowed Chair in Microeconomics, University of Kentucky; and Dr. Richard Fording, Associate Director, Center for Poverty Research, Pro-

fessor of Political Science, University of Kentucky.

LRC Staff: DeeAnn Mansfield, Lou DiBiase, Mustapha Jammeh, Carlos Lopes, Gina Rigsby, and John Scott.

Representative Stumbo said that he is very grateful that so many of his colleagues in the General Assembly asked to be a part of the Poverty Task Force. It speaks volumes about the intention of the General Assembly to really and truly tackle a subject that has affected too many Kentuckians for far too long. He stated that if there was any doubt of the need for the task force, it should have been erased earlier this month when the U.S. Census Bureau reported that Kentucky had the fifth highest poverty rate among the states, up from sixth in 2008. This was a two-year average, and it only barely includes the effects of what many are calling the Great Recession. He stated that everyone has seen firsthand how poverty affects us in ways both large and small. For families, it has meant foreclosures and homelessness and more days without a decent meal. For state government, it has meant a Medicaid budget growing by the thousands every month and a shrinking tax base. Representative Stumbo expressed concern that poverty in Kentucky, as wide spread as it is, is still growing faster here than the national average and something needs to be done to turn that around. Representative Stumbo said that there is no secret formula to success. Kentucky needs concrete ways to create better jobs with better pay and help more students finish high school and college. He said that his short-term goal is to be able to say that, by the end of the 2010 Regular Session, most if not all of the task force's recommendations became law. The long-term goal is to be able to see progress when the U.S. Census Bureau releases the poverty rate figures again.

Representative Stumbo stated that over the next several months the task force will study early childhood education, access to transportation, homelessness, and financial training. He said that he is interested in knowing whether there may be too much overlap in Kentucky's poverty programs, or if there are areas that need more support, or if education dollars are being put to their best use since so much of the budget goes to this one area. Indiana and Louisiana are on track to cut childhood poverty in half by 2020. Ohio is working on ways to reduce the number of families living below 200 percent of the poverty level. One advantage to Kentucky's position is there is a lot of room for growth. The Bible tells us that the poor will always be with us, but it also counsels us to reach out

to those in need and help them build the kind of life we all want.

Senator Smith said that poverty is a very important subject, and he is glad that the goal of the task force is to make recommendations to the General Assembly. He stated that every person has a different definition of poverty, and a lot of counties do not even realize they have a tremendous poverty issue. The intention is to knock down barriers that divide counties and isolated geography that contribute and promote poverty and to become aware of programs that can help Kentuckians fight poverty. He said that it is difficult to say that we have been successful when there are children and families living in inadequate housing, do not have adequate health care, and are hungry.

A presentation on poverty trends and policy options for Kentucky was given by Dr. James P. Ziliak, Director, Center for Poverty Research, Gatton Endowed Chair in Microeconomics, University of Kentucky; and Dr. Richard Fording, Associate Director, Center for Poverty Research, Professor of Political Science, University of Kentucky. Dr. Fording said that the University of Kentucky Center for Poverty Research (UKCPR) was established in 2002 as one of four federally-funded poverty research centers in the United States. Information about the UKCPR can be found at <http://www.ukcpr.org>. Research is both national in scope and a thematic emphasis on poverty in the South. The poverty rate measures the fraction of the population with incomes below the poverty line. In 2008, the national poverty rate based on approximately 40 million individuals was 13.2 percent. From 2006 to 2008, Kentucky's poverty rate of 16.5 percent was based on 700,000 individuals. Based on the most recent data, poverty in Kentucky is much higher among children, individuals with less than a high school education, female-headed families, African Americans, Hispanics, and persons in rural areas.

From 2006 to 2008, Kentucky had the fifth highest poverty rate among all states and the District of Columbia. Since 1970, the Economic Research Service of the USDA defines a county as persistently poor if the county's poverty rate exceeds 20 percent. From 1979 to 2003, Appalachian Kentucky leads the rest of Appalachia in terms of poverty. Statistics from 1979 to 1999 show Appalachia Kentucky had the highest percentage of students with a high school diploma and at least a college degree. State anti-poverty initiatives between the states have varying structures and goals on poverty reduction targets, but have the initiatives have bipartisanship support.

Dr. Ziliak stated that combating

persistent poverty in Kentucky will require sustained, creative solutions focused on long-term outcomes, not least of which robust economic growth is. Increase investment in capital – human, health, financial, and physical – through expanded education, tax modernization with work and saving incentives, health and welfare reform, and infrastructure. These investments are good for all Kentuckians, not just the poor. Pre-K programs have been shown to have long-term payoffs in terms of higher graduation rates, higher employment and earnings, and reduced crime. Targeting families eligible for free and reduced price lunch is likely to yield a higher payoff than universal programs. There is substantial evidence from both the medical profession as well as social science that shows there are tremendous growth changes that occur in the first few years of the child's life. A lot of the changes occur because of the nutrition and health of the mother and the subsequent health and nutrition programs that the child has available such as the Women, Infants, and Children (WIC) program. Several states have implemented pilot programs on direct nurse home visits. There are periodic visits by a trained professional who visit families from lower-income backgrounds to discuss proper nutrition and cognitive development for the children.

Well known experimental evaluations of Perry Preschool and Chicago Child/Parent Programs show that the preschools have benefit cost ratios in excess of 3. In 2001, Louisiana went statewide with its LA4 preschool program, which is funded with Temporary Assistance for Needy Families (TANF) dollars and made freely available to all children eligible for reduced price lunch, has led to notable gains in early achievement. The goals of KERA/NCLB need to be re-examined to see if they adequately address the drop-out crisis. Research suggests that children age 11 and older fared worse when mothers transitioned to work after welfare. A survey by the Gates Foundation listed several reasons individuals drop out of school: (1) lack of connection; (2) boredom; (3) unmotivated; (4) academic challenges; and (5) family distress. The seeds to drop out are planted early.

Conditional cash transfers allow families to receive a cash grant for children to receive medical check-ups with the stipulation that the children attend school regularly. New York City currently does conditional cash transfers on an experimental basis. New York City has also created internship opportunities for teens. The JOB Corps focus on disadvantaged youth who are disconnected with their families and allow them to re-

ceive comprehensive treatment.

Expanded after-school and summer programs have been implemented to help the drop out crisis. There is a fundamental shift in the United States economy toward a skilled workforce, and high school completion is no longer enough. Kentucky needs to expand investment in community colleges and universities, including need-based financial assistance. Then incentivize our graduates to stay and invest in Kentucky. Research suggests that training that focuses on "human capital development" has a higher long-term payoff than "work first" strategies. Recent work done at CBER suggests that Kentucky's firm relocation subsidy program has some beneficial effects if they incorporate worker training, e.g. through the Bluegrass State Skills Corporation.

The tax system needs to be consistent with the 21st Century economy to provide a more stable funding stream and encourage work and saving. Low-income workers and families can benefit from fundamental tax reform in Kentucky through the state earned income tax credit (EITC), child care subsidies and tax credits, individual development accounts, and automatic enrollment. In 1975, the federal EITC was established as a refundable tax credit and only available to low-income workers who file a tax return. The EITC helps four million families out of poverty each year. In the 1990s, expanded generosity played a big role in raising work among single mothers and lowering family poverty. Twenty-three states plus the District of Columbia supplement the federal EITC with a state EITC. The federal EITC injected \$630 million into Kentucky's economy in 2005. Sixty-two percent of poor families in Kentucky contain at least one worker, and it is estimated that a state EITC could assist over 360,000 working poor individuals in Kentucky. Based on research evidence, the UKCPR recommends that a state EITC be refundable, offer at least a ten percent credit rate tied to the federal EITC, and target all low-income workers.

In 2008 it was estimated that annual infant child care costs were \$6,240 for full-time center care and \$4,956 for school-age children in non-school hours. This represents 20 percent to 25 percent of an annual income for a single mother. Numerous studies have shown that child care subsidies spur employment, especially among single mothers. The UKCPR projects that a 25 percent subsidy could lift single mother employment in Kentucky to a level on par with single moms in the rest of the United States. The child care assistance could be in the form of a

wage subsidy or child and dependent care tax credit.

Microcredit, peer to peer lending, further investment in transportation, broadband and cell connections, especially in rural areas, and environmental issues can improve the long-run economic status of the poor.

There are substantial barriers to health care for many Kentuckians. If it passes, the federal health care reform legislation still might not be enough. From 2006 to 2008, Kentucky ranked 18th in state health insurance coverage rates. Eligibility for the uninsured, the Kentucky Transitional Assistance Program (KTAP), and the Kentucky Children's Health Insurance Program (KCHIP) need to be expanded. Further outreach efforts need to be made for food stamps, the EITC, and the WIC. Three in ten people are not receiving needed food stamps. Many programs and ideas have limited experience and/or evaluation. Some ideas are new, but most have been evaluated. The UKCPR strongly recommends that the Poverty Task Force include an evaluation component in any new policy initiatives so that they can assess program success and improve policy going forward. The goal is to cut poverty in half by the year 2020.

Senator Stivers asked if the poverty level numbers is a raw dollar figure or weighted for an area or region where someone lives, because the cost of living per area can be drastically different. Dr. Fording said that the poverty thresholds are not adjusted for geographical differences in the cost of living, with the exception of Hawaii and Alaska.

Representative Stevens stated that one of the best things that came out of KERA is the family resource centers. He stated that Kentucky needs to look at more vocational assistance. If someone does not plan to attend college, they will need to be trained for a profession. Kentucky has to do a better job of addressing educational needs, making residents value education, and addressing the lack of education many residents face every day.

Representative Flood asked about the 1993 expansion of the federal EITC that played a big role in raising work among single mothers and lowering family poverty. Dr. Ziliak stated that the 1993 tax reform increased the expansion of the EITC. The EITC works in three phases: subsidy, stationary, and phase-out. Representative Flood asked about the tax modernization and creating a stable funding stream for a state budget so programs can be implemented. She said that a multi-field approach is critical.

Representative Henderson stated that entrenched poverty also

involves the local government. If there is a poor tax base, a poor infrastructure, and poor county, there are more poor people. Education is paramount for the solution of ending poverty. He said that the Internet has helped poverty stricken areas. More incentives are needed to attract more businesses to Kentucky. County tax bases have to be changed to help poverty levels.

Representative Henley stated that for the past decade the country has been moving from primarily manufacturing-based economy to an increased service-based economy. He said at the same time Kentucky spends has began to spend more money on tourism. He asked if the UKCPR had considered doing a correlation of the net in shopping counties and the net out shopping counties versus per capita income and poverty levels. He said that we have moved into an era where if a county does not have high speed telecommunication, the more sophisticated industries will not consider locating in that area.

Representative Wuchner said that home visitation is a part of the HANDS program that addresses the zero to three year olds. She asked if there are federal grants available that Kentucky has not taken advantage of. She asked if Kentucky is adequately covering the zero to three year olds with the programs available now and the way the funding comes in from the tobacco settlement, and is there a benefit to extend coverage to four and five year olds. Dr. Ziliak stated he has not seen the statistics that Kentucky is adequately addressing the zero to three year olds. He said that evidence suggests that the zero to three year olds are the critical period for some early interventions within the family, but the four to five year age window is a critical period for cognitive development. Research suggests there is a strong interaction between a person's health and their ability to achieve in school and these health deficits accumulate over time.

Representative Upchurch stated that we should be concerned about Kentucky, not national figures. He said that we need to know the true numbers of Kentucky's poverty rate in order to attack the problem from a Kentucky standpoint. Dr. Ziliak stated that according to a 1955 was a survey conducted by the U.S. Department of Agriculture that showed the average American family spent one-third of their after tax income on food. The poverty threshold was established by finding what how much it would cost to buy a minimally adequate nutritive diet and multiply it by three, and adjust it by family size. The threshold is based on the

assumption that the American family spends one-third of their budget on food, but the actual average is approximately one-eighth. If the current thresholds were recalculated to adjust for current spending patterns, they would be twice as high. The statistics do allow Kentucky to keep track of how we fared over the past four and a half decades using a very consistent yardstick.

Representative Glenn asked if the poor people had been asked what they think is more important on how to get out of poverty. Dr. Ziliak stated that some studies have been done where families were asked detailed questions to try to get a good handle on how to make ends meet. The studies consistently show that the poor share many of the middle-class values, but barriers need to be removed that would allow them to obtain their goals. The poor want to learn, but they also want to be motivated and challenged. The Gates Foundation survey showed that most regretted dropping out of school and go back and get the General Education Diploma (GED). Someone with only a GED does not make any more on the average than a high school dropout, but it does make them more employable and helps them be able to continue their educational experiences.

Representative Marzian suggested Representative Wayne come and testify to the task force about the EITC. She said that low-income people are preyed upon by banks, because they cannot afford to pay for overdrawn fees or bank fees for just having a checking account. She stated that credit card companies and pay day lending companies prey on the poor. Dr. Ziliak stated that pay day lending companies open a line of credit for low-income families that they may not otherwise be able to obtain, but if a payment is missed, the payment is added on to the loan and the interest rate can rise to as much as 500 percent. He stated that some states have put a cap on interest rates. He said studies show that most low-income families feel more comfortable dealing with a pay day lender than a bank. The pay day lending is a very valuable access, but it certainly deserves close scrutiny. Unfortunately, credit cards are a way for some low-income families to make ends meet, so restriction to them could hurt more than help.

Representative Combs asked why there is more poverty in some areas of the state than others. She said that broadband and a technology infrastructure is an area that is lacking in high poverty areas. She said that she sees the correlations between the lack of technology and education and poverty rates. She stated that

stimulus dollars should be used to build the infrastructure regardless of the customer-base, because smaller private companies are not able to put it in all the places it needs to be and companies who have the capital to do it will not because the customer-base is not there. Private enterprise has to be involved. Dr. Ziliak stated that essential technology will affect all families, not just the low income. He said that many services can be delivered over broadband.

Representative Belcher stated that there is a need to expand vocational programs to give students the opportunity to get some good training. She asked who plants the seeds in young children that they are not capable of finishing high school. Dr. Ziliak stated there is no single source but some are family disruption and distress, health, and schools.

Senator Tori stated that it is important to look at poverty data from other states to see where Kentucky ranks and how Kentucky can improve. She stated that low-income families could live better if they are taught how to manage their money.

Representative Hall stated that education is the key. Valuable information can be gathered from family resource centers. He said that a lot of senior citizens live in poverty. Seniors have a hard time deciding to buying prescriptions or food, because they do not have enough money for both. There is a need to look at prescription plans and the catastrophic strain it puts on seniors. Church-based organizations have been a big help for low-income families. He asked why Kentucky went from being ranked eighteenth to fifth since 2001. Dr. Ziliak stated that the average U.S. and Kentucky median income has been flat for a decade, and has even fallen for Kentucky. There has been a fairly robust economic expansion, yet the income situation for families has not improved. While manufacturing and resource attraction has been good and encouraged for the Commonwealth, they are fairly volatile industries. While incomes did not rise, insurance premiums for health care went through the roof. Many firms have been put in a bind by having to choose between giving employees a raise or cover rising health insurance, and many have opted to cover the rising health insurance. Over the past decade, there has been a steady decline in employer-provided insurance. Approximately 58 percent of employers provide insurance. Representative Hall stated that the Kentucky Homeplace program is a great source of information and data. Poverty is a chronic problem that needs to be addressed. There are 54 vocational schools in Kentucky that have not been a priority. While everybody

is not going to attend college, they can be trained to be employable.

Representative Henley said that there is a need to emphasize the importance of the Kentucky Homeplace in the 2010 budget process. It is one of the most successful health care programs for the rural poor in the entire United States. He said that broadband telecommunication availability is the first order of priority in the economic war where there are winners and losers. There needs to be more competition in broadband telecommunication technology.

There being no further business, a motion to adjourn at 2:56 p.m. was made by Representative Henderson, seconded by Representative Glenn, and approved by voice vote.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS

Senior Citizens Executive Committee

Minutes of the 2nd Meeting of the 2009 Interim September 30, 2009

The 2nd meeting of the Executive Committee of the Special Advisory Commission of Senior Citizens for this year was held on Wednesday, September 30, 2009, at 1:30 PM, in Room 327 of the Capitol. Ms. Lillian Rice, Chair, called the meeting to order.

Present were:

Members: Lillian Rice, Chair; Bertha Daniels, Barbara Germain, Edna Hawkins, Norman Pallarito, Fred Smith, Claude Tiller, Laurel True, and Joe Wahlen.

LRC Staff: Sheila Mason, Kenny Bishop, Katie Carney, Miriam Fordham, Rhonda Franklin, Adanna Hydes, Eric Kennedy, Jonathan Scott, and Brandon White.

Guests: Eric Clark, Kentucky Association of Healthcare Facilities.

Ms. Lillian Rice, Chair, called the meeting to order, welcomed everyone and stated that the purpose of the meeting was to discuss agendas for the upcoming November 5-6, 2009, meetings of the Special Advisory Commission of Senior Citizens (the Advisory Commission) and the five subcommittees.

Mr. Fred Smith moved that the minutes of the April 8, 2009, Executive Committee meeting be approved. The motion was seconded by Ms. Bertha Daniels and adopted by vote of the Executive Committee.

Chairwoman Rice informed the Executive Committee that Ralph Souleyret from Harlan, appointed by the Cumberland Area Development District, and Roger Truitt from Paducah, appointed by the Purchase Area Development District, were recently appointed to the Advisory Commission. She also referred the

Committee to a preliminary draft of a memorial resolution honoring Ms. Rowena Emerson. Chairwoman Rice asked the Executive Committee to contact a LRC staff member with any additional information or edits to be considered for the final draft. An invitation to the Thursday evening dinner session will be extended to Ms. Emerson's husband.

Ms. Sheila Mason advised the Executive Committee that LRC staff had met recently to discuss the current structure of the Advisory Commission's committees and meetings. She informed the Executive Committee of the need to examine the Advisory Commission's meeting expenses and consider possible cut-backs. She advised that room setup and food and beverage service are being reviewed for potential savings.

Ms. Mason also noted ideas discussed by LRC staff assigned to the Advisory Commission that the Executive Committee may (or may not) want to consider and may (or may not) want to discuss with the entire Advisory Commission. These include reassessing the five subcommittee areas currently in place, setting term limits on subcommittee membership by rotating Advisory Commission members among the subcommittees, making information relative to specific subcommittee jurisdictions more accessible to members of other subcommittees, presenting one prioritized list of recommendations from the entire Advisory Commission instead of five sets of recommendations from each individual subcommittee, and creating a cycle wherein the Advisory Commission issues final recommendations at its May meeting and uses the November meeting to develop strategies to communicate those recommendations and to formulate a preliminary agenda for the following May meeting.

The Executive Committee discussed the various ideas at length and suggested that LRC staff prepare a memo further exploring making subcommittee discussions more accessible to the general Advisory Commission membership, prioritizing Advisory Commission recommendations and developing a May/November Advisory Commission meeting cycle for developing recommendations and developing effective communication strategies. Ms. Daniels moved that LRC staff make the final decision on how breakfast will be handled at the November meeting. The motion was seconded by Mr. Smith and adopted by the Executive Committee. Ms. Mason asked the members to review an information sheet on the Advisory Commission's Regional Coordinating Committees and to present any ideas they may have to make the RCCs more effective.

tive.

Chairwoman Rice asked the Executive Committee to review the preliminary information for the November meeting's general sessions, and asked for suggestions on the agenda and speakers. Ms. Mason advised that a representative of the US Department of Commerce's Census Office, Ben Johnson, is interested in speaking to the entire Advisory Commission about the Census Bureau's 2010 information gathering process. Mr. True suggested inviting Ron Crouch, retired director of the Kentucky State Data Center and current Director of Research and Statistics in the Kentucky Office of Employment and Training, to be the Thursday afternoon speaker. Mr. Smith moved that Mr. Crouch be invited. The motion was seconded by Ms. Germain and adopted by the Executive Committee. Chairwoman Rice asked Mr. Pallarito to ask Mr. Bob Mueller from Louisville to speak at the Thursday evening dinner session. If Mr. Mueller is not available, Chairwoman Rice asked Mr. True to ask Mr. Al Smith from Lexington to serve as the Thursday evening dinner session speaker. The Executive Committee agreed to keep "Conversation with the Commissioner" as a Friday morning agenda item and to invite Commissioner Debbie Anderson of the Department for Aging and Independent Living to speak to the Advisory Commission at that time. Ms. Katie Carney informed the Executive Committee that the nominating committee will meet on Friday morning and will report later that morning on their nominees for Chair and Vice-Chair of the Advisory Commission. Nominations from the floor will be accepted as well. Biographical information on all nominees will be mailed to the Advisory Commission members prior to the May 2010 general meeting.

Chairwoman Rice asked each subcommittee chair to present their proposed agendas for the November meeting of the Advisory Commission.

Mr. Claude Tiller deferred to Mr. Laurel True who reported that on Thursday the Consumer Affairs Subcommittee will hear from Bill Harned who serves on the Attorney General's Consumer Protection Counsel and from Johnny Cantrell from the Consumer Credit Counseling Service. They will address issues related to debt adjuster practices in Kentucky. Also on Thursday afternoon, Amy Shir from the Kentucky Coalition for Responsible Lending and Robert Owens who heads a Louisville coalition of churches will discuss payday lending practices in Kentucky. On Friday morning the subcommittee will discuss and draft legislative recommendations.

Ms. Edna Hawkins reported that on Thursday afternoon the Health and Human Services Subcommittee will discuss the 2010 legislative agenda for seniors with Commissioner Debbie Anderson of the Cabinet for Health and Human Services, Department of Aging and Independent Living. Also on Thursday afternoon, Steve Sparrow, a coordinator with the Kentucky Safety and Prevention Alignment Network at the University of Kentucky will address the Fall Prevention Program for Older Adults. On Friday morning the subcommittee will discuss and draft legislative recommendations.

Ms. Barbara Germain reported that on Thursday afternoon the Insurance Subcommittee will engage in a discussion on health insurance coverage for genetic disorders, a discussion on the local government premium tax and a discussion on healthcare reform. On Friday morning the subcommittee will discuss and draft legislative recommendations and discuss topics for the May 2010 meeting.

Ms. Bertha Daniels reported that on Thursday afternoon the Taxation Subcommittee will discuss the recent cigarette tax increase and where the revenue that has been generated is being allocated. The subcommittee will also discuss homelessness among Kentucky's older population and how funding from the American Recovery and Reinvestment Act and the Kentucky HEARTH Grant Program may help prevent it. On Friday morning the subcommittee will discuss and draft legislative recommendations.

Mr. Fred Smith reported that on Thursday afternoon the Transportation Subcommittee plans to discuss motorcycle helmet laws in Kentucky. The subcommittee also plans to discuss the statewide disparity with the Meals on Wheels delivery services and seniors' access to transportation services in the different regions of the state. On Friday morning the subcommittee will discuss and draft legislative recommendations.

Chairwoman Rice asked if there were any other issues to be discussed. A motion to adjourn was made by Ms. Daniels and seconded by Ms. Germain. The motion passed.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS

**Subcommittee on Insurance
Minutes of the 1st Meeting
of the 2009 Interim
May 7, 2009**

The 1st meeting of the Subcommittee on Insurance of the Special Advisory Commission of Senior Citizens was held on Thursday, May 7, 2009, at 2:30 PM, at the Capital

Plaza Hotel. Barbara Germain, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Barbara Germain, Chair; Mary Barlow, Ruth Bryant, Leon Dodge, Marsha Dufek, Bob Elliott, Ed Flanagan, Jane Fugate, Carolyn Horn, Denver Moore, Joy Payne, Clarence Richardson, Clayton Shannon and Ken Willis.

Guests: Bill Nold, Director, Health Division, Department of Insurance, Jay Thompson, D.J. Wasson and Melea Rivera, Department of Insurance.

LRC Staff: Rhonda Franklin and Jamie Griffin.

The minutes of the November 6, 2008, meeting were approved.

Mr. Bill Nold, Director, Health Division, Department of Insurance, addressed the subject of health reform and the slow history of implementing health reform laws. He explained that HIPPA which was enacted in 1996 is known for its privacy safeguards, but other portions of this legislation are still in the process of implementation 13 years later.

Mr. Nold stated that the 2008 Mental Health Parity Law, which will require more equality for mental health insurance coverage in comparison to physical health coverage. Mr. Nold stated that since states regulate most aspects of health insurance, state laws and regulations will need to be amended to comply. He stated that Kentucky's mental health parity laws currently exceed earlier mental health parity requirements and will not require extensive changes. He stated that the federal mental health parity law applies to group coverage for groups with more than 50 members; applies to all financial requirements including deductibles, copayment and out of pocket expenses; and reduces treatment limitations including the number of medical visits and days of coverage.

Melea Rivera, Health Division, Department of Insurance, explained that Medicare coverage contains a different set of mental health care provisions which affect most seniors.

Mr. Nold explained that the "donut hole" of Medicare Part D provides prescription drug coverage up to \$2,700 each year and after the \$2,700 is depleted, the individual is responsible for prescription expenses between \$2,701 and \$4,350 out-of-pocket; and after the \$4,350 out-of-pocket, the catastrophic coverage takes effect and participants make of copay of \$2.40 for generic drugs and \$6.00 for name brand medications.

On Friday, May 8, 2009, the subcommittee adopted the following recommendations:

Urge the General Assembly to

provide continuation funding at the current level for Area Agencies on Aging to support Senior Programs due to the current economic climate, but urge the General Assembly to increase much needed funding to at least 5% when the economy improves.

To require long-term care insurance carriers to submit rate increases to the Attorney General, as well as the Office of Insurance, to allow intervention by the Attorney General as needed.

Urge the General Assembly to continue to address the state employee and other state supported retirement system funding including insurance benefits.

Urge the General Assembly to address necessary assistance for seniors when enrolling in Medicare Part D, including appropriating federal stimulus money for technology to the Senior Centers for access to Medicare.gov and staffing to assist seniors in selecting a prescription plan.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

October 14, 2009

The 8th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 14, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dottie Sims, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Carroll Gibson, Co-Chair; Representative Dottie Sims, Co-Chair; Senators Vernie McGaha, Joey Pendleton, and Damon Thayer; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Debby Milton and Kelly Rice, Kentucky Infrastructure Authority; Steve Coleman, Kentucky Division of Conservation; Joel Neaveill, Angela Blank, Sandra Gardner, Governor's Office of Agricultural Policy, Tim Hughes, Kentucky Agriculture Finance Corporation; Drew Graham, University of Kentucky College of Agriculture; Mac Stone, Kentucky Department of Agriculture.

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

The September 9, 2009 minutes were approved by voice vote and without objection on a motion made by Senator Gibson, seconded by Senator Thayer.

The presiding co-chair, Representative Sims, invited Mr. Joel Neaveill,

Chief of Staff, Governor's Office of Agricultural Policy, to appear before the committee and report on the Agricultural Development Board's actions from the previous month. His report included the County Agricultural Investment Program allocations and the Deceased Farm Animal Disposal Assistance Program.

According to Mr. Neaveill, responding to Representative McKee, counties set up their deceased animal programs in different ways, thus the total amounts in the programs will vary. He said the GOAP program is a temporary fix for a larger problem. According to Representative McKee, solutions to the problem should be sought at this time.

Mr. Neaveill also responded to a question from Senator Gibson regarding the potential use of Agricultural Development Fund moneys to assist young farmers wanting to take welding or mechanical training at local technical schools. Mr. Neaveill indicated ADF moneys have been approved for several county programs aimed at providing welding classes to those who produce or have produced tobacco.

Appearing next before the committee was Ms. Debby Milton, Financial Analyst, Kentucky Infrastructure Authority (KIA), who reported on the agency's appropriation of tobacco settlement funds to assist water and sewer projects. During her testimony, Ms. Milton reported on tobacco settlement-related line item grants approved in previous legislative sessions. She also discussed different types of projects funded in committee members' districts.

During her testimony, Ms. Milton explained to Co-chair Sims why local systems are upgrading from 4-inch water lines to 6-inch. Ms. Milton said local systems upgrade for several reasons, additional pressure for fire protection, factory needs, and aging lines. She said local entities decide if they want to upgrade.

Ms. Milton responded to a series of questions from Senators McGaha and Thayer regarding the use of federal stimulus funds received under the American Recovery and Reinvestment Act of 2009. According to her testimony, KIA applied for and received \$70 million in stimulus funds. KIA used the federal money to help fund 61 projects that were preparing for construction. She told Senator McGaha that the funds did not replace other funding. She said some of the projects were funded totally with the stimulus money, but for most of them, the funds were part of a larger funding package.

Ms. Milton indicated to Senator Thayer that the 61 projects were not previously approved by the General Assembly; rather they were on

a priority list in KIA's State Revolving Fund. Over 300 entities applied for the funding, with the list narrowed down to the 61. Also, the KIA board has the statutory authority to approve and appropriate funding outside the General Assembly. Once projects are selected to receive funding, they go before the legislative Capital Projects and Bond Oversight Committee for review, according to testimony. She indicated individual projects selected by the General Assembly are not prioritized, but all are ultimately funded.

Ms. Milton said she would send committee members a listing of the 61 projects benefitting from the federal stimulus dollars.

Next, the co-chair called on Mr. Steve Coleman, Director, Division of Conservation, who appeared to update the committee on the Kentucky Soil Erosion and Water Quality Cost Share Program, and Environmental Stewardship Program, which receive tobacco settlement funds. Mr. Coleman also discussed the Green River Conservation Reserve Enhancement Program (CREP), under which 100,000 acres is set aside in 14 south central Kentucky counties.

Following the formal presentation, Mr. Coleman responded to committee members that the Green River CREP is closed for additional sign-ups, but there exists the possibility that fund may be obtained for other areas.

Responding to Co-chair Gibson, he said the division works closely with the federal Natural Resources Conservation Service in abiding by land conservation practices.

Senator Gibson described complaints that he had received from farmers in his area. The farmers have complained about noxious weeds growing on the set-aside land. Mr. Coleman indicated warm season and native grasses are suggested for propagation, but those plants must complete with other plants to survive and become established.

The senator also asked about requirements affecting endangered species. Mr. Coleman indicated that the endangered species are protected under the program. He indicated they work with landowners to enable them to harvest timber in keeping with the Endangered Species Act. Responding to Co-chair Sims, he indicated the biodiversity is unique in the Mammoth Cave area.

Mr. Coleman responded to Representative Comer that they are not "leaving federal funds on the table" with the program. He said they could gain additional federal funds if they had more money to utilize. He gave an example of going from 20 conservation advisory positions to 40 positions.

Representative McKee thanked Mr. Coleman for his work. He recalled that during the 2000 session and the drafting of HB 611, the General Assembly appropriated \$9 million to the division to help farmers comply with the state Agriculture Water Quality Act.

But, according to Representative McKee, the need for the annual appropriation remains. Representative McKee noted Representative Comer's emphasis on the idea that increasing state funding for the program would lead to additional matching federal funding. Mr. Coleman responded that the farming situation in the state has changed. In the last 15 years, he said, Kentucky has grown as a beef cattle production state.

Co-chair Sims commented that she is receiving letters from conservation districts in her area who are asking for additional funding.

Speaking next, Representative Hoffman indicated that, given the residential growth that is taking place, it is imperative that programs the division implements remain intact. He mentioned the necessity for maintaining funding.

He also mentioned the work of the General Assembly's Land Stewardship and Conservation Task Force and its quest to determine dedicated funding for land set-asides. Mr. Coleman responded by mentioning the division's association with the state Purchase of Agricultural Conservation Easement program and the creation through the years of voluntary agricultural conservation districts, which to date, involves about 3,000 landowners and some 300,000 acres.

Responding further to Representative Hoffman, Mr. Coleman noted that the current Farm Bill makes available matching funds for farmland preservation.

Next, Representative Adams asked about the cost-share requirements for practices eligible for assistance under the soil erosion and water quality environmental stewardship programs. Mr. Coleman said the cost-share ratio varies with the practice. For example, animal waste structures are more expensive.

Mr. Coleman explained their expenditure process to Representative Adams. He said a landowner has a year to complete a practice and seek reimbursement. But some practices can take longer and extensions are granted, meaning the work will extend into multiple years.

Also, sometimes landowners will cancel projects, meaning funds are rolled over for subsequent sign-ups. According to Mr. Coleman, the division has set aside \$1 million to assist farmers who participate in the federal Environmental Quality Incen-

tives Program (EQIP).

The division has placed an emphasis on animal waste control, according to Mr. Coleman, who noted that the \$1 million allocated has resulted in the receipt of \$5 million in federal funds.

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

The meeting adjourned at approximately 11:30 a.m.

Coal, from page 1

To keep coal affordable, Andrews said policymakers must find viable ways to store and use carbon dioxide produced by coal-fired power plants.

"We can't have things that consume a third of the power of the power plant, which is what current carbon capture technology would do, and double the cost of electricity—that's not going to be sustainable with our industry," he said.

Injecting carbon dioxide into reservoirs beneath the earth's surface or capturing the gas through photosynthetic processing of algae are two options for carbon dioxide capture, said Andrews. But he said reducing carbon dioxide emissions will take a multi-step approach.

"EPRI (the Electric Power Research Institute) ...believes it is technically feasible to reduce our emissions to the levels that we would like to, but we can't do it with a single thing. It's going to require a mix of almost all of our options," including energy efficiency, renewable energy, coal carbon dioxide capture, use of electric vehicles and nuclear energy.

Concerning carbon capture, Committee Co-Chair Sen. Tom Jensen, R-London, asked Andrews if captured carbon dioxide can dissipate or escape after it is injected into the earth. Andrews said a majority of the gas remains stored under pressure, but there is some "migration" of the gas in small quantities.

Rep. Tim Moore, R-Elizabethtown, commented that humans are a point source of carbon dioxide through respiration, adding that the gas "is not a substance we should be afraid of, it is perhaps something we should manage."

Andrews said Kentucky coal is used to produce about 5 percent of the nation's electricity.

The state produces about 2.3 percent of U.S. electricity from all sources, he said.

2010 Prefiled Bills

BR 1 - Representative Jesse Crenshaw (05/12/09)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to exclude a convicted felon from the right to vote only until expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 2 - Representative Jim Wayne (06/15/09)

AN ACT relating to taxation and declaring an emergency.

Amend KRS 141.020 to increase the tax rate on income over \$75,000; amend KRS 141.066 to establish a refundable earned income tax credit at 15 percent of the federal credit; amend KRS 140.130 to decouple from the federal estate tax phase-out; amend KRS 139.010, 139.200, and 139.480 to make selected services subject to sales tax; amend KRS 141.0205 to recognize changes to income tax credits; make income tax provisions apply to tax years beginning on or after January 1, 2010, make estate tax provisions effective for deaths on or after August 1, 2010; make sales tax provisions effective July 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 10 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to childhood hearing loss.

Amend KRS 211.645 to amend the definition of “Auditory screening report”; delete the definition of “Infant at high risk for late onset, progressive hearing loss, or both.”

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 11 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to smoking cessation.

Amend KRS 205.560 to require smoking cessation programs or treatment interventions for pregnant smokers to be in accordance with protocols and guidelines recommended by the Centers for Disease Control and Prevention.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 12 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to the Kentucky Board of Examiners of Psychology.

Amend KRS 319.010 to define “IPC”; amend definition of “practice of psychology”; amend KRS 319.015 to clarify restrictions on teachers of psychology, psychological researchers, provider of consultation services, or expert testimony and to clarify permitted usages of written or computerized interpretations of psychological testing by clinical social workers, marriage and family therapists, professional art therapists, advanced registered nurse practitioners, physicians, or occupational therapists, and to allow temporarily employed nonresidents to practice for a limited time; amend KRS 319.032 to increase continuing education hours for license renewal; amend KRS 319.050 to require applicants to pass national EPPP examination, require applicants to pass ethical examination, and empower board of psychology to assess acceptability of doctoral degrees in psychology before admittance to practice; modify responsibilities and requirements for “Health Service Providers”; amend KRS 319.053 to allow board of psychology to establish written test for applicants on psychological practice, ethical principles, and the law.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 15 - Representative Robert R. Damron (09/15/09)

AN ACT relating to mold remediation standards.

Create new sections of Subchapter 20 of KRS Chapter 224 to state the General Assembly’s finding that reasonable standards for the remediation of mold in private and public settings should be maintained; define “customer,” “department,” “mold,” “mold remediation,” and “mold remediation company”; establish the basis for minimum mold remediation standards; provide that the Cabinet for Health and Family Services shall adopt administrative regulations

relating to mold remediation standards; require complaints about mold remediation companies to be directed to the Attorney General; establish that the Attorney General has jurisdiction to enforce the mold remediation provisions and the ability to recover litigation costs.

(Prefiled by the sponsor(s).)

BR 16 - Representative Robert R. Damron (07/14/09)

AN ACT relating to fire protection subdistricts.

Create a new section of KRS Chapter 75 to allow for dissolution of fire subdistricts.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Local Government

BR 20 - Representative Jody Richards (10/06/09)

AN ACT relating to crimes and punishments.

Create a new section of KRS Chapter 531 to prohibit a person under 18 years of age from transmitting a nude image of himself or herself or another person under 18 years of age to another person by computer or electronic means as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction; prohibit requiring registration as sex offender; create new section of KRS Chapter 531 to prohibit possession of a nude image of a person under 18 years of age as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction for person under 18 at time of commission of offense and District Court jurisdiction for persons over 18; prohibit requiring registration as sex offender.

(Prefiled by the sponsor(s).)

BR 23 - Representative Jeff Greer (06/10/09)

AN ACT relating to insurance licensing.

Amend KRS 304.3-180 to reduce the number of consecutive years from seven to five that an insurer may use the same lead or coordinating audit partner of an accountant firm for preparing the audited financial statement, effective beginning with the year 2010 statutory audits; amend KRS 304.9-020 to define

“rental vehicle insurance,” “rental vehicle agent” and “rental vehicle agent managing employee”; amend KRS 304.9-133 to delete the requirement that business entities file an annual report of all designated individuals who were not terminated on or prior to December 31; amend 304.9-150 to remove the requirement that a business entity applicant file with its application a certificate issued by the Kentucky Secretary of State demonstrating that it can do business in Kentucky and a copy of its assumed name certificate; provide that a business entity applicant or licensee shall not use a name which is the same or deceptively similar to another business entity licensee; amend KRS 304.9-230 to add rental vehicle as a limited line of authority subject to the general licensing requires for all general agents; amend KRS 304.9-505, 304.9-507, and 304.9-509 to conform; repeal KRS 304.9-485, 304.9-501, 304.9-503, and 304.9-513.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 24 - Representative Jeff Greer (06/10/09)

AN ACT relating to insurance loss run statements.

Create a new section of Subtitle 20 of KRS Chapter 304 to define terms; require an insurer to provide a loss run statement within ten days of a written request submitted an insured by or another insurer; provide that the loss run statement shall be for a five-year loss run history, or a complete history if less than five years; prohibit the receiving agent from divulging consumer information to a third party; prohibit an insurer from charging a fee for the first loss run statement; create a new section of Subtitle 99 of KRS Chapter 304 to provide that an insurer or insurer’s agent that does not provide a loss run statement as requested shall be fined not less than \$100 nor more than \$250 for each day the loss run statement is not provided.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 38 - Representative Tom Riner (06/25/09)

AN ACT relating to shock probation.

Amend KRS 439.265 to prohibit shock probation until either service of one year of imprisonment or completion of a comprehensive substance abuse

treatment with supplemental character and education components; amend to allow victim’s next-of-kin to consent in writing to granting shock probation to the defendant; provide for short title, “The Kentuckians against Drunk Driving Act.”

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 47 - Representative Jody Richards (07/30/09)

AN ACT relating to highway signs.
Amend KRS 177.078 to permit an applicant approved for a limited supplemental guide sign to have the option to reimburse the Transportation Cabinet in full for the sign and its installation or to amortize the reimbursement costs for a period not to exceed 10 years.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 48 - Representative Arnold Simpson (10/20/09)

AN ACT relating to the initial removal of dead human bodies.
Create new sections of KRS Chapter 316 to provide for who shall apply for a permit, and who shall be exempt from the permit requirements; establish conditions of eligibility for a permit; indicate permit fees and when a permit expires; establish guidelines relating to the use of a vehicle; require the board to promulgate administrative regulations relating to the application procedures and the initial removal of dead human bodies; authorize the board to punish permit holders for violations, and persons engaging in the initial removal without a permit; require permit holders to complete a course on blood borne diseases required by the board and approved by the Cabinet for Health and Family Services before functioning on behalf of an entity regulated by this chapter; amend KRS 316.010 to define “initial removal of dead human bodies”; amend KRS 316.125 to establish who may supervise and engage in the initial removal of dead human bodies including when supervision is required.

(Prefiled by the sponsor(s).)

BR 49 - Representative Arnold Simpson (08/10/09)

AN ACT relating to criminal record expungement.
Create a new section of KRS Chapter 431 to allow a person convicted of one Class D felony or a series of Class D felonies arising out of a single event to petition to have the felony record

expunged under specified circumstances; amend KRS 431.078, relating to misdemeanor expungements, to begin the five-year waiting period from the date of adjudication of the offense; amend KRS 527.040, relating to possession of a firearm by a felon, to exempt individuals who have had their felony records expunged; create a new section of KRS Chapter 431 to require the Administrative Office of the Courts to keep a confidential index of expungement orders for utilization in the preparation of presentence investigations.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 50 - Representative Ron Crimm (07/29/09)

A CONCURRENT RESOLUTION affirming the principles of the Ninth and Tenth Amendments to the United States Constitution and declaring that the United States Constitution will be nullified if the federal government assumes further powers that it does not possess.
Reaffirm the principles of government expressed by Thomas Jefferson in a resolution written for the Kentucky legislature in 1798; declare that the nation represents a compact among the states, and that the federal government possesses only the powers delegated to it by the United States Constitution; describe the limits of federal power under the Ninth and Tenth Amendments to the United States Constitution; determine a method for communicating these principles to other states; declare that any act of the federal Congress, executive order of the President of the United States, or judicial order of the federal court that assumes a power not delegated to the United States government will constitute a nullification of the United States Constitution; declare that, upon such a nullification, all powers previously delegated to the United States will revert to the several states individually; list some federal actions that would bring about such a nullification; declare that any future government of the United States would require ratification by three-quarters of the states.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 54 - Representative Stan Lee, Representative Joseph M. Fischer, Representative Thomas Kerr (06/02/09)

A CONCURRENT RESOLUTION claiming sovereignty over powers not granted to the federal government by the United States Constitution; serving notice to the federal government to cease

mandates beyond its authority; and stating Kentucky’s position that federal legislation that requires states to comply under threat of loss of federal funding should be prohibited or repealed.
Declare state sovereignty over powers not given to the federal government by the U. S. Constitution; demand the federal government to cease mandates beyond constitutionally delegated powers; prohibit federal legislation requiring state passage of laws under threat of penalties or sanctions; direct the Clerk to distribute copies of the Resolution.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 57 - Senator Katie Kratz Stine (06/05/09)

A JOINT RESOLUTION designating Kentucky Route 8 in the city limits of Dayton, Kentucky in honor and memory of Staff Sergeant Nicholas R. Carnes.
Direct the Transportation Cabinet to designate Kentucky Route 8 in the city limits of Dayton in honor and memory of Staff Sergeant Nicholas R. Carnes and to erect signs on Kentucky Route 8 that read, “Staff Sergeant Nicholas R. Carnes Memorial Highway.”

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 58 - Senator Katie Kratz Stine (06/05/09)

A JOINT RESOLUTION designating Kentucky Route 8 in the city limits of Bellevue, Kentucky in honor and memory of Sergeant Justin A. Scott.
Direct the Transportation Cabinet to designate Kentucky Route 8 in the city limits of Bellevue in honor and memory of Sergeant Justin A. Scott and to erect signs on Kentucky Route 8 that read, “Sergeant Justin A. Scott Memorial Highway.”

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 60 - Representative Charles Siler (06/23/09)

AN ACT relating to Kentucky State Parks.
Create a new section of KRS Chapter 148 to provide qualified Kentucky residents who are permanently and totally disabled veterans an exemption from the relevant overnight accommodations rate at any Kentucky State Park; require the exemption to apply to a maximum of three overnight stays per

calendar year at lodge rooms and campsites at any Kentucky State Park, with each stay limited to a maximum of three days; require the exemption to be subject to space availability; limit reservations during peak months to Sunday through Thursday; require that administrative regulations shall be promulgated to define peak periods, establish a ten day reservation window, define applicable lodging, and regulations relating to the proof of eligibility for persons entitled to the exemption.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Economic Development and Tourism

BR 65 - Representative Ron Crimm (06/03/09)

AN ACT relating to domestic relations and declaring an emergency.
Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; amend KRS 403.270, relating to custodial issues, to add the promotion of a healthy relationship between the child and other custodian or parent as a factor for the consideration of awarding custody of children; amend KRS 530.050, relating to nonsupport and flagrant nonsupport, to add spouse and former spouse; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 66 - Representative Ron Crimm (07/29/09)

AN ACT relating to the gross revenues and excise tax fund and declaring an emergency.
Amend KRS 136.650 to increase the “hold-harmless amount” for fiscal year 2010-2011 and every fiscal year thereafter; amend KRS 136.654 to require the Department of Revenue to determine if it is necessary for a participating political subdivision to certify its total tax receipts; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 70 - Senator Gary Tapp (09/25/09)

AN ACT relating to motor vehicle repair claims.
Create a new section of Subtitle 9 of KRS Chapter 304 to define “claimant,” “deceptive referral,” “request or require,” and “usual and customary rate”; set forth insurer notification require-

ments regarding the ability of a claimant to choose their own provider for vehicle repairs; set forth requirements for payment of vehicle accident claims; prohibit insurance companies requesting or requiring that claim work be performed at a particular shop; prohibit insurance companies from engaging in deceptive referral practices; amend KRS 304.99-110 to set penalties for violations.

(Prefiled by the sponsor(s).)

BR 73 - Representative Fitz Steele (07/16/09)

AN ACT relating to investment of the Local Government Economic Assistance Fund balances.

Amend KRS 42.450 to eliminate the requirement that balances in the Local Government Economic Assistance Fund be invested in United States Government Securities maturing not later than one year from the date of investment and require that investment of the fund balances be governed by KRS 42.500.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 75 - Representative Rick G. Nelson (07/09/09)

AN ACT relating to the Education Professional Standards Board.

Amend KRS 161.028 to add the chairpersons of the Interim Joint Committee on Education as ex officio members of the Education Professional Standards Board.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 79 - Representative Brad Montell (10/12/09)

AN ACT relating to public school academies.

Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public school academies; define terms; outline the requirements and limitations on the establishment of public school academies including which agencies may sponsor an academy; describe a sponsor's roles and responsibilities; describe exemptions from law and required compliance areas for public school academies; describe the application, approval, and renewal processes; describe application process for existing schools to convert to public school academies; create new sections of KRS Chapter 156 to list the Kentucky Department of Education's and the Kentucky Board of

Education's roles and responsibilities relating to public school academies; require the Kentucky Board of Education to establish a Kentucky Public School Academy Commission for reviewing and approving public school academy applications; identify the academy commission membership, members' terms of office, and payment for members' services; create a new section of KRS Chapter 157 to direct how state, local, and federal funds shall be used to support public school academies; amend KRS 157.370 to allow a public school academy to receive transportation funds; create a new section of KRS 160 to provide that professional negotiated contracts cannot override provisions for public school academies; amend KRS 156.704, 156.255, 156.265, and 156.480 to conform.

(Prefiled by the sponsor(s).)

BR 82 - Representative Brad Montell (07/28/09)

AN ACT relating to school attendance.

Amend KRS 158.070 to allow students to be counted present at school when participating in school-sponsored regional or state sports competitions sanctioned by the Kentucky Board of Education or its designated agency if the competition occurs on a regularly scheduled school day; require students to make up any missed assignments; amend KRS 158.649 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 86 - Representative Brad Montell (10/02/09)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to legislators who have not previously participated in the plan and who begin their first term of office on or after July 1, 2011; create new sections of KRS Chapter 6 to establish the Legislators' Defined Contribution Plan for legislators who begin their first term of office on or after July 1, 2011; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators' Defined Contribution Plan; provide an employer match of up to 5 percent of the legislator's wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at five years; provide that the benefits provided by the Legislators' Defined Contribution Plan shall not constitute an inviolable contract of the Common-

wealth; amend KRS 18A.245 to establish responsibilities of the board of the Kentucky Deferred Compensation Authority to administer the Legislators' Defined Contribution Plan; amend KRS 61.680 and 161.607, governing the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System, to clarify that a legislator who begin his or her first term of office on or after July 1, 2011, shall not participate in these plans as a result of service in the General Assembly; provide that the service earned in the Legislators' Defined Contribution Plan may be used for purposes of determining eligibility for retirement in the state-administered retirement systems, but not the amount of benefits; require the board of the Legislators' Defined Contribution Plan to provide an update on the development of the plan, including any state or federal law issues that need to be resolved, to the Interim Joint Committee on State Government by October 31, 2010.

(Prefiled by the sponsor(s).)

BR 87 - Representative Arnold Simpson (08/05/09)

AN ACT relating to open records.

Amend KRS 61.870 to include in the definition of public agency those bodies that participate in the state retirement systems.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 93 - Representative Mary Lou Marzian (07/08/09)

AN ACT proposing to repeal Section 233A of the Constitution of Kentucky relating to marriage.

Propose to amend the Constitution of Kentucky to repeal the definition of marriage; submit to voters for approval or disapproval.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 95 - Representative Darryl T. Owens (08/28/09)

AN ACT relating to crimes and punishments.

Amend KRS 532.356 to remove the provisions requiring the withdrawal of driving privileges for persons convicted of a theft offense who have not paid court ordered restitution; include non-codified transitional provisions for persons whose driving privileges had been previously removed.

(Prefiled by the sponsor(s).)

BR 96 - Senator Julie Denton (10/15/09)

AN ACT relating to health care services provided in clinical trials for the treatment of cancer.

Create a new section of Subtitle 17A of KRS Chapter 304 to prohibit a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial; provide that nothing in this section requires a policy to offer, nor prohibit a policy from offering, cancer clinical trial services by a participating provider; provide that nothing in this section requires services that are performed in a cancer clinical trial by a non-participating provider of a policy to be reimbursed at the same rate as those performed by a participating provider of the policy.

(Prefiled by the sponsor(s).)

BR 98 - Representative David Floyd, Representative Darryl T. Owens (07/02/09)

AN ACT relating to mental illness.

Amend KRS 532.130 to define severe mental illness; amend KRS 532.135 to include a severely mentally ill defendant; amend KRS 532.140 to include severely mentally ill offender and to establish effective date.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 107 - Representative Jim Glenn (10/05/09)

AN ACT relating to college student financial awareness.

Create a new section of KRS Chapter 164 to require public postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management and encourage them to conduct informational sessions; encourage nonpublic postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management and to conduct informational sessions; permit institutions to utilize existing debt education materials from nonprofit entities; and require the Kentucky Higher Education Assistance Authority to assist institutions in identifying appropriate materials and curricula.

(Prefiled by the sponsor(s).)

BR 108 - Representative Jim

Glenn (10/05/09)

AN ACT designating burgoo as the state dish.
Create a new section of KRS Chapter 2 naming and designating burgoo as the state dish.

(Prefiled by the sponsor(s).)

BR 114 - Representative Brent Yonts (08/26/09)

AN ACT relating to the Department of Corrections.
Create a new section of KRS Chapter 197 to prohibit any privatized inmate food service in the state’s prisons.

(Prefiled by the sponsor(s).)

BR 115 - Representative Stan Lee (07/22/09)

AN ACT relating to charter schools.
Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public charter schools; define terms; outline the requirements and limitations on the establishment of charter schools; describe local board of education’s roles and responsibilities; describe exemptions from law and required compliance areas for charter schools; describe the application, approval, and renewal processes; describe process and application process for existing schools to convert to charter schools; create new sections of KRS Chapter 156 to list the Kentucky Department of Education’s and the Kentucky Board of Education’s roles and responsibilities relating to charter school; require the Kentucky Board of Education to establish a Kentucky Charter School Advisory Committee for reviewing charter school applications; create a new section of KRS Chapter 157 to direct how state, local, and federal funds shall be used to support charter schools; amend KRS 156.074, 156.255, 156.265, and 156.480 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 118 - Representative Rick G. Nelson (08/05/09)

AN ACT relating to personal communication devices.
Create a new section of KRS Chapter 189 to prohibit the use of a personal communication device for any person under the age of 18 while operating a motor vehicle; provide for exclusions; create a new section of KRS Chapter 189 to prohibit text messaging while operating a motor vehicle; provide for

certain exclusions; amend KRS 189.990 to set penalties for violations for this Act; provide for a probationary period ending November 1, 2010, where courtesy warnings will be issued; set a fine of \$50 for each offense after the probationary period; exempt fines from court costs.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 120 - Representative Jody Richards (09/25/09)

AN ACT relating to criminal gangs.
Create new sections of KRS Chapter 17 to permit law enforcement and prosecution agencies to share criminal gang information; create a new section of KRS Chapter 431 to permit an action for civil damages in criminal gang activity and criminal gang recruitment cases; create a new section of KRS Chapter 431 to permit courts to enjoin criminal gang activity and criminal gang recruitment activity; create a new section of KRS Chapter 506 to create definitions relating to criminal gangs; create new sections of KRS Chapter 506 to create the crimes of criminal gang recruitment in the first degree and second degree and permit seizure and forfeiture of criminal gang assets and property; amend KRS 506.150 relating to evidence necessary to establish criminal gang activity; repeal KRS 506.140 relating to criminal gang recruitment and definitions.

(Prefiled by the sponsor(s).)

BR 121 - Senator Ray S. Jones II (08/03/09)

AN ACT relating to health insurance.
Create a new section of subtitle 17A of KRS Chapter 304 to define applied behavior analysis,” “autism services provider,” “autism spectrum disorder,” “diagnosis of autism spectrum disorders,” “habilitative or rehabilitative care,” “medically necessary,” “pharmacy care,” “psychiatric care,” “psychological care,” “therapeutic care,” and “treatment for autism spectrum disorders”; create new section of subtitle 17A of KRS 304 that requires health policies covered in this subtitle to provide coverage for the diagnosis and treatment of autism spectrum disorders and their related conditions; prohibit insurance policies from limiting the number of visits an insured may make for such services; allow services provided by this section to be subject to copayment, deductible, and coinsurance provisions; give insurers the right to request a review of treatment not more than once every 12 months unless the insured’s physician or psychologist agrees that a more frequent review is necessary; amend KRS

18A.225 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 122 - Senator Ray S. Jones II (09/09/09)

AN ACT relating to personal identification cards.
Amend KRS 186.412 to allow holders of personal ID cards who have been diagnosed with autism to receive a sticker identifying that condition to place on the ID card.

(Prefiled by the sponsor(s).)

BR 123 - Representative Jody Richards (08/25/09)

AN ACT relating to the Kentucky educator award and recognition fund and making an appropriation therefor.
Create a new section of KRS chapter 156 to establish the Kentucky educator award and recognition fund to provide matching funds for schools that have state and national award winning educators who received cash awards or an equivalent benefit; require the Kentucky Department of Education to administer the fund.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 124 - Representative David Floyd, Representative Bill Farmer (08/04/09)

A CONCURRENT RESOLUTION urging support for the Second Amendment of the United States Constitution and urging Congress not to enact any law that would infringe on the right to bear arms under the Constitution of Kentucky.
Urge support for the Second Amendment of the United States Constitution; urge Congress not to enact any law that infringes on the right to bear arms under the Constitution of Kentucky.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 132 - Representative Jody Richards (07/30/09)

A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to establish a strategy to provide home laptop computers for middle school students.
Direct the Legislative Research

Commission to establish a legislative task force to establish a strategy to provide home laptop computers for middle school students; establish task force by August 1, 2010; report findings to appropriate committee or committees no later than December 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 133 - Representative Jody Richards (07/30/09)

AN ACT relating to dating violence.
Amend KRS 403.720 to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 to reference the definition of “unmarried couple” in KRS 403.720.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 135 - Representative Will Coursey (08/05/09)

AN ACT relating to water transportation and making an appropriation therefor.
Create new sections of KRS Chapter 174 to establish the Water Transportation Advisory Board as an advisory body to the executive and legislative branches of government; provide for members, terms, and administrative procedures; specify duties; create a riverport marketing assistance trust fund to be administered by the Cabinet for Economic Development; provide for grants of up to \$15,000 per project or \$30,000 per applicant annually for specified marketing activities; create a riverport financial assistance trust fund to be administered by the Transportation Cabinet; provide for financial assistance for new construction and major replacement or repair projects for Kentucky’s riverports; provide for matching grants.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 139 - Senator Joey Pendleton (09/02/09)

AN ACT relating to industrial hemp.
Create new sections of KRS Chapter 260 to define “department,” “industrial hemp,” and “THC”; require persons wanting to grow or process industrial hemp to be licensed by the Department of Agriculture; require criminal history checks by local sheriff; require the Department of Agriculture to promulgate administrative regulations to

carry out the provisions of the Act; require sheriff to monitor and randomly test industrial hemp fields; assess a fee of \$5 per acre for every acre of industrial hemp grown, with a minimum fee of \$150, to be divided equally between the Department of Agriculture and the appropriate sheriff’s department; require licensees to provide the Department of Agriculture with names and addresses of any grower or buyer of industrial hemp and copies of any contracts the licensee may have entered into relating to the industrial hemp; clarify that the Act does not authorize any person to violate federal law.

(Prefiled by the sponsor(s).)

BR 142 - Representative Fitz Steele (09/17/09)

A JOINT RESOLUTION naming a portion of Kentucky Route 840 in Harlan County in honor of Jerry Chesnut. Direct the Transportation Cabinet to designate the “Jerry Chesnut Highway” on Kentucky Route 840 in Harlan County and erect appropriate signs.

(Prefiled by the sponsor(s).)

BR 145 - Representative Joni L. Jenkins (08/12/09)

AN ACT relating to dating violence. Amend KRS 403.720 relating to domestic violence orders to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 relating to arrests by peace officers to reference the definition of “unmarried couple” including dating partners in KRS 403.720.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 159 - Representative Bill Farmer (10/12/09)

AN ACT relating to sales tax on alcohol. Amend KRS 139.470 to exempt gross receipts from the sale of distilled spirits, wine, and malt beverages, not consumed on the premises, from sales and use tax; effective August 1, 2010.

(Prefiled by the sponsor(s).)

BR 164 - Representative Hubert Collins (09/02/09)

AN ACT relating to special license plates. Amend KRS 186.164 to clarify procedures to follow when the Transportation Cabinet denies a group’s applica-

tion for a special license plate. (Prefiled by the sponsor(s).)

BR 165 - Senator John Schickel (10/09/09)

A RESOLUTION supporting Charles “Ed” Massey’s candidacy for the post of secretary-treasurer of the National School Boards Association. Support Charles “Ed” Massey’s candidacy for the post of secretary-treasurer of the National School Boards Association.

(Prefiled by the sponsor(s).)

BR 168 - Representative Rick G. Nelson (08/20/09)

AN ACT relating to public safety. Create a new section of KRS Chapter 177 to require the department of highways to inspect all public railroad grade crossings with an average daily traffic count of 700 vehicles or more at least 2 times per year; require results of inspection to be kept on file for 5 years; require the department to promulgate administrative regulations to establish standards for railroad grade crossings; specify that within 30 days of being notified that a crossing is substandard that the railroad company submit plans for improvement; permit the department to issue an order to the railroad company to make improvement to a railroad grade crossing pursuant to the procedures set forth in KRS 177.150 through 177.210.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 169 - Representative Rick G. Nelson (09/21/09)

AN ACT relating to school district vehicles and declaring an emergency. Create a new section of KRS 160 to prohibit local school boards from providing a district employee the use of a district-owned or leased vehicle, except for buses and maintenance vehicles; allow a district employee to be reimbursed for mileage when using a personal vehicle for school or district business outside the school district boundaries.

(Prefiled by the sponsor(s).)

BR 172 - Representative Darryl T. Owens (08/28/09)

AN ACT proposing to amend Section 228 of the Constitution of Kentucky. Propose to amend Section 228 of the Constitution of Kentucky to delete

language regarding duels; submit to the voters for approval or disapproval. (Prefiled by the sponsor(s).)

BR 174 - Representative Jimmy Higdon (09/01/09)

AN ACT relating to automated or recorded political telephone messages. Amend KRS 367.46951 to define “prerecorded political message”; amend KRS 367.46955 to prohibit the delivery of prerecorded political messages to telephone numbers on the national Do Not Call Registry. (Prefiled by the sponsor(s).)

BR 176 - Representative Jimmy Higdon (09/01/09)

AN ACT relating to retirement. Amend KRS 6.525, relating to legislative retirement, to prevent members of the General Assembly who first take office after the effective date of this Act from consolidating their accounts under various retirement systems for the purpose of determining benefits. (Prefiled by the sponsor(s).)

BR 178 - Representative Jimmy Higdon (09/01/09)

AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions. Propose an amendment to Sections 36 and 42 of the Kentucky Constitution to limit legislative sessions of the General Assembly to 30 days each year. (Prefiled by the sponsor(s).)

BR 180 - Representative Jody Richards (09/04/09)

AN ACT relating to personal communication devices. Create a new section of KRS Chapter 189 to define “personal communication device”; prohibit text messaging while operating a motor vehicle; provide for specific exclusions; amend KRS 189.990 to set penalties; provide for a probationary period ending January 1, 2011, during which courtesy warnings will be issued; set fine for violation at \$20 to \$100 for each offense after the probationary period; exclude court costs. (Prefiled by the sponsor(s).)

BR 182 - Representative Jesse Crenshaw (08/27/09)

AN ACT relating to inmates.

Amend KRS 196.180 to require wardens to expunge dismissed or voided inmate disciplinary reports. (Prefiled by the sponsor(s).)

BR 185 - Representative Tom Burch (09/17/09)

AN ACT relating to the abolition of the death penalty. Create a new section of KRS Chapter 532 to abolish the death penalty and require the court with jurisdiction over a person sentenced to death to sentence the person to imprisonment for life without benefit of probation or parole; amend KRS 24A.110, 27A.430, 431.060, 431.215, 431.510, 439.265, 506.010, 506.030, 506.040, 506.080, 507.020, 509.040, 520.120, 527.200, 532.030, 532.040, 532.050, 532.100, 532.140, 533.010, 610.265, 635.020, 635.090, 640.040, 17.176, 507A.020, and 422.285 to conform; repeal KRS 422.287, 431.213, 431.2135, 431.218, 431.220, 431.223, 431.224, 431.240, 431.250, 431.260, 431.270, 507A.060, 532.025, 532.075, 532.300, 532.305, and 532.309, relating to the death penalty. (Prefiled by the sponsor(s).)

BR 187 - Representative Fitz Steele, Representative Fred Nesler (09/18/09)

AN ACT relating to sales and use tax holidays and declaring an emergency. Create a new section of KRS chapter 139 to establish a 3 day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY. (Prefiled by the sponsor(s).)

BR 197 - Representative Rick G. Nelson (10/01/09)

A JOINT RESOLUTION commending the Ridgetop Shawnee Tribe of Indians for their efforts on behalf of preserving Native American heritage. Commend the Ridgetop Tribe of Shawnee Indians for their efforts to help their elderly and their youth; recognize their work to preserve their native language and heritage. (Prefiled by the sponsor(s).)

BR 202 - Senator Julie Denton (09/28/09)

AN ACT relating to sexual abuse.

Amend KRS 510.110, relating to sexual abuse in the first degree, to prohibit certain persons employed by or associated with an agency or facility responsible for detention or treatment from having sexual contact with persons incarcerated, supervised, evaluated, or treated by those agencies; amend KRS 510.120 to conform.

(Prefiled by the sponsor(s).)

BR 210 - Representative John Tilley (10/26/09)

AN ACT relating to encouraging health lifestyles.

Create new sections in KRS Chapter 141 to establish a wellness project credit; create a new section in KRS Chapter 131 to require the department to report data annually to the Legislative Research Commission; amend KRS 141.0205 to place the new credit within the credit-ordering statute; create a new section in KRS Chapter 194A to require the Cabinet for Health and Family Services to develop an employer wellness project model and require a certification process for all employer-provided programs.

(Prefiled by the sponsor(s).)

BR 213 - Representative Larry Clark (09/02/09)

AN ACT relating to continuity of health care.

Amend KRS 304.17A-500 to define “acute-care hospital” for health insurance purposes; amend KRS 304.17A-527 to require that an agreement between a managed care plan and an acute-care hospital shall include provisions for a term of not less than 3 years, a 6-month notice to the plan and the executive director of the department of insurance by the acute-care hospital prior to termination or nonrenewal, procedures to ensure continuity of care for covered persons not less than 30 days prior to termination, no less than 20 days notice prior to termination by the managed care plan to the covered person of the procedures to follow for continuity of care including an expedited internal appeal process and an expedited external appeal if necessary, and a provision requiring mediation or binding arbitration between the managed care plan and the acute-care hospital for any dispute regarding a covered person’s access to continuity of care in the event of termination or nonrenewal of the provider agreement; amend KRS 304.17B-001 to confirm.

(Prefiled by the sponsor(s).)

BR 216 - Representative Tom Burch, Representative Bob

M. DeWeese (10/21/09)

AN ACT relating to the Colon Cancer Screening Program, and making an appropriation therefor.

Amend KRS 214.542 to permit the Department for Public Health to adopt a schedule of income-based fees to be charged for colon cancer screenings; require that the fee schedule be such that the screenings are available to the largest number of people; create a new section of KRS 214.540 to 214.544 to create the Kentucky Colon Cancer Screening Program fund and establish the parameters of the fund; require moneys in the fund to be used by the department to administer KRS 214.540 to 214.544; provide that moneys remaining in the fund at the end of the fiscal year will carry forward into the succeeding fiscal year interest earned on moneys in the fund will accrue to the account; provide that moneys are appropriated for purposes set forth in KRS 214.540 to 214.544; appropriate \$1,000,000 in fiscal year 2010-2011 and \$2,000,000 in fiscal year 2011-2012 to the department for deposit in the Kentucky Colon Cancer Screening Program fund.

(Prefiled by the sponsor(s).)

BR 222 - Representative Jimmy Higdon (09/03/09)

AN ACT relating to primaries.

Amend KRS 116.055 to permit a registered independent to vote in the primary of one party for each primary; amend KRS 118.125 to provide that a primary candidate shall not be a registered independent; amend KRS 117.125 to provide that electronic voting machines be reprogrammed to allow a registered independent to vote for a party’s candidates in a primary.

(Prefiled by the sponsor(s).)

BR 229 - Representative Linda Belcher (09/22/09)

AN ACT relating to the care of individuals with mental retardation or other developmental disorders.

Repeal and reenact KRS 202B.070, relating to the duty of individuals with direct care responsibility for residents of ICF/MR to meet specific needs, including supervision; name the statute “Deron’s Law”; amend KRS 202B.070 to delete the word “intentionally” in reference to the failure to provide supervision of a resident by an individual who has direct care responsibility.

(Prefiled by the sponsor(s).)

BR 230 - Representative

Linda Belcher (09/22/09)

AN ACT relating to child custody.

Amend KRS 620.090 to provide that children who are in temporary custody for a period not exceeding 45 days from the date of the removal from his home may be in the custody of the Cabinet for Health and Family Services or with another appropriate person or agency.

(Prefiled by the sponsor(s).)

BR 231 - Representative Linda Belcher (09/22/09)

AN ACT relating to digital citizenship.

Amend KRS 156.660 to define “digital citizenship” as a set of characteristics that conceptualize the rewards as well as risks facing all technology users; set forth the characteristics; amend KRS 156.675 to require the Kentucky Board of Education to promulgate an administrative regulation to require that each local school board shall implement an acceptable use policy that requires all school district employees who use technology to comply with the policy which shall include the characteristics of digital citizenship; amend KRS 156.095 to include technology and the characteristics of digital citizenship in the professional development activities which shall be provided for teachers; and amend KRS 158.148 to require local school districts to include in their student behavior codes behavior as it relates to being a good digital citizen.

(Prefiled by the sponsor(s).)

BR 232 - Representative Linda Belcher (09/22/09)

AN ACT relating to suicide prevention training.

Amend KRS 156.095 to require the Cabinet for Health and Family Services to post suicide prevention awareness and training information on its Web page by August 1, 2010; require every public middle and high school administrator to disseminate suicide prevention awareness information to all middle and high school students by September 1, 2010, and September 1 of each year thereafter.

(Prefiled by the sponsor(s).)

BR 237 - Representative Jody Richards (10/12/09)

AN ACT relating to criminal gangs.

Create a new section of KRS Chapter 17 to permit named agencies to operate a criminal gang database and

share the information with named agencies; define which information may be included in a criminal gang database; specify which local, state, and federal agencies may access information in a criminal gang database on a need to know basis; create a new section of KRS Chapter 431 to permit crime victims to sue persons convicted of criminal gang activity for treble damages; permit a person who is the victim of criminal gang activity to bring court action to enjoin criminal gang activity; create a new section of KRS Chapter 506 to define what constitutes a criminal gang and other terms related to criminal gangs; create the crimes of criminal gang recruitment in the first degree and criminal gang recruitment in the second degree; provide for seizure of money or property used in or the proceeds of criminal gang related activity; amend KRS 506.150 relating to establishing the existence of a criminal gang to reduce from 5 to 3 the number of persons involved in the activity; repeal KRS 506.140 relating to definitions for the chapter.

(Prefiled by the sponsor(s).)

BR 238 - Representative Myron Dossett (10/26/09)

AN ACT relating to motor vehicle license plates.

Amend KRS 186.041 to allow the purchase of an unlimited number of special military-related license plates; allow persons to purchase additional Gold Star Mothers or Gold Star Spouses special license plates beyond the two currently exempted from fees; amend KRS 186.162 to establish fees for additional Gold Star Mothers or Gold Star Spouses special license plates.

(Prefiled by the sponsor(s).)

BR 239 - Representative Myron Dossett (10/16/09)

AN ACT relating to sales tax.

Create a new section of KRS Chapter 139 to establish a refund program for new small businesses; EFFECTIVE October 1, 2010.

(Prefiled by the sponsor(s).)

BR 240 - Representative Myron Dossett (10/16/09)

AN ACT relating to the individual income tax.

Create a new section in KRS Chapter 141 to exclude from individual income tax for eight consecutive calendar quarters the amount of wages paid by a qualifying small business that has no more than five employees and registers with the department; amend KRS 141.010 and 141.310 to conform.

(Prefiled by the sponsor(s).)

BR 250 - Representative Tom Burch (10/15/09)

AN ACT relating to acupuncture.

Amend various sections of KRS 311.671 to 311.686 to change acupuncture from a certified to a licensed profession; amend KRS 311.676 to increase penalty for practicing acupuncture without a license to a Class D felony; amend KRS 311.680 to clarify the definition of potentially serious disorders or conditions.

(Prefiled by the sponsor(s).)

BR 251 - Representative Greg Stumbo, Representative Rocky Adkins, Representative Larry Clark, Representative Hubert Collins, Representative Will Coursey, Representative Robert R. Damron, Representative Mike Denham, Representative Tim Firkins, Representative Kelly Flood, Representative Keith Hall, Representative Sannie Overly, Representative Ruth Ann Palumbo, Representative Tom Riner, Representative John Will Stacy (09/24/09)

AN ACT relating to the use of global positioning monitoring systems including monitoring-related restrictions and sanctions in domestic violence cases.

Amend KRS 403.720 relating to domestic violence definitions to define “global positioning monitoring system”; amend KRS 403.740 relating to emergency protective orders to permit a court to restrain a respondent from going to or near specified locations; amend KRS 403.750 relating to domestic violence orders to permit court a to restrain a respondent from going to or near specified locations; create a new section of KRS Chapter 403 to permit the petitioner in a domestic violence order case to inform the court of places the petitioner does not want the respondent to go into or near; create a new section of KRS Chapter 403 to require the court to assess the respondent’s dangerousness; create a new section of KRS Chapter 403 to a permit court, as part of a domestic violence order, to order a respondent to wear or carry global monitoring system device and permit a petitioner to carry a device notifying the petitioner that the respon-

dent is nearby; require the court to notify the petitioner of the operation and limitations of global positioning monitoring system devices, and provide a penalty for removing or tampering with the device; create a new section of KRS Chapter 403 to require the Department of Corrections to contract with entities providing global positioning system monitoring services to provide services meeting the requirements of the statutes; name act the Amanda Ross Domestic Violence Prevention Act.

(Prefiled by the sponsor(s).)

BR 262 - Representative Mike Denham (10/22/09)

AN ACT relating to domestic violence.

Amend KRS 403.725 to prohibit joint mediation, conciliation, or counseling requirements within an emergency protective order or a domestic violence order; amend KRS 403.740 to allow an emergency protective order to remain in effect until the domestic violence hearing, with only the summons needing to be reissued in the event of a lack of service upon the adverse party; amend KRS 403.750 to require counseling in all cases for persons against whom a domestic violence order is entered; amend KRS 403.7505 to recognize batterer intervention services within the scope of certifies counseling services; amend KRS 403.763 to increase the penalty for a third or subsequent violation of an emergency protective order or a domestic violence order to a Class D felony; create a new section of KRS Chapter 511 to create the crime of domestic violence shelter trespass.

(Prefiled by the sponsor(s).)

BR 265 - Representative Bill Farmer (10/12/09)

AN ACT relating to the alcoholic beverage wholesale sales tax and declaring an emergency.

Amend KRS 243.882 to make technical corrections to defined terms; amend KRS 243.884 to reduce the tax rate on gross receipts from wholesale sales of malt beverages, wine, and distilled spirits to 5.5% for sales made on or after July 1, 2010, and to provide that the tax shall not apply to sales made on or after July 1, 2011; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 268 - Representative Mike Denham (10/26/09)

A RESOLUTION designating June 2010 as Kentucky Rabies Awareness Month.

Designate June 2010 as Kentucky Rabies Awareness Month.

(Prefiled by the sponsor(s).)

BR 275 - Representative Dennis Keene (10/09/09)

AN ACT relating to driving under the influence.

Amend KRS 189A.005 to expand the definition of “ignition interlock device”; amend KRS 189A.010 to include driving the wrong way on a four-lane highway among the list of factors for triggering aggravated DUI penalties; amend KRS 189A.070 to provide that a reduction in the time period of a license revocation does not lessen the time required for ignition interlock usage; amend KRS 189A.085 to run the period of a license plate impoundment from the date of sentencing to the day the offender is authorized to resume driving; amend KRS 189A.340 to require ignition interlock usage beginning with the first DUI offense and to remove an offender’s ability to drive a non-interlock-equipped work vehicle; amend KRS 189A.410 to require ignition interlock usage while an offender is driving on a hardship license.

(Prefiled by the sponsor(s).)

BR 276 - Representative Dennis Keene (10/09/09)

AN ACT relating to live organ donation.

Create a new section of KRS Chapter 141 to provide a tax credit for individuals who donate live organs in the amount of the lesser of actual expenses or \$10,000; define “live organ donation expenses”; amend KRS 141.0205 to conform; create a new section of KRS Chapter 18A to provide that state employees who donate a live organ are entitled to 30 days paid leave; provide that Sections 1 and 3 of the Act shall be known as “Beth’s Bill.”

(Prefiled by the sponsor(s).)

BR 277 - Representative Dennis Keene (10/09/09)

AN ACT relating to public safety.

Create a new section of KRS Chapter 17 to provide a registration system for persons convicted of murder, define “registrant,” and “murder,” establish period of registration, and establish penalties for failure to register.

(Prefiled by the sponsor(s).)

BR 300 - Representative Tom Burch (10/15/09)

AN ACT relating to administrative regulations and declaring an emer-

gency.

Amend KRS 13A.338 to declare any administrative regulation found deficient since March 27, 2009, to be null, void, and unenforceable; prohibit the administrative agencies from promulgating administrative regulations identical to or substantially the same as that administrative regulation for a specified period of time; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 334 - Representative Ted Edmonds (10/20/09)

AN ACT relating to county consolidation.

Create new sections of KRS Chapter 67 to establish a new procedure for the optional consolidation of counties; exclude consolidated local governments, charter county governments, urban-county governments, and unified local governments from the procedures; permit two or more counties to consolidate with such action initiated by public petition or local ordinance; require signatures of 20% or more of the number of persons voting in last presidential election for initiation petition; provide for the contents and certification of petitions as prescribed; require the county judge/executive in the initiating county within 10 days to notify the other local governments and their citizens of the proposal as prescribed; require responding action in adjoining counties within 120 days or initial action becomes void; require a special election within 90 days if adjoining counties enter the process; require approval in each county for consolidation to become effective; prescribe the language for the ballot, other election procedures, and advertisement of the election by the sheriff; require a simple majority of those voting in each county for approval; require all election costs to be paid for by the state, and prohibit any organizational changes in a newly consolidated county for 10 years; prohibit any new county from becoming effective until the end of terms of current officeholders and require new officers to be elected in the same manner and at same time as other county officials; require the county judge/executive in each county to appoint 6 citizens to a transition committee as prescribed; require transition committee to divide county into 3-8 magisterial districts and to select 2-5 names for the new county to be decided by the voters; require final report of the transition committee as prescribed; provide for a gubernatorial appointee to break tie vote on questions relating the name of the new county, the formation of magisterial districts, or other issues on ballot; require all taxes from immediate year to remain in effect until changed by the new county; require the creation of a special taxing district for repayment of prior financial obligations in previously existing counties as prescribed; require

surplus funds to be spent in the areas where funds were raised as prescribed; permit voters to determine the location of new county seat from previously existing locations; require county seat to remain at that location for not less than 10 years; require other remaining county buildings to be maintained as branch offices for 10 years as prescribed; provide for federal and state election districts as prescribed; require the Governor’s Office for Local Development to promulgate administrative regulations awarding preference points on community development block grant applications and provide technical and advisory assistance to consolidated counties; require, upon consolidation, all appointments to boards of special districts to remain in effect until the expiration of the term, at which point the appropriate appointing authority shall make new appointments; and repeal KRS 67.190, 67.200, 67.210, 67.220, 67.230, 67.240, 67.250, 67.260, 67.270, 67.280, 67.290, and 67.310.

(Prefiled by the sponsor(s).)

BR 341 - Representative
Mike Denham (10/26/09)

AN ACT relating to crimes and punishments.
Amend KRS 500.080 to include loss of consciousness within the definition of physical injury; amend KRS 508.020 to include intentionally or wantonly causing physical injury by means of strangulation within the offense of assault in the second degree.

(Prefiled by the sponsor(s).)

BR 367 - Representative
Mike Cherry (10/26/09)

AN ACT relating to honoring military service.
Amend KRS 18A.150 to require that an employing state agency offer an interview to all finalists entitled to preference points if there are fewer than five finalists, and to no fewer than five if there are five or more; amend to clarify veteran eligibility.

(Prefiled by the sponsor(s).)

BRs by Sponsor
* - denotes primary sponsorship of BRs

Senate

Denton, Julie
BR96*, 202*
Harper Angel, Denise
BR10*, 11*, 12*
Jones II, Ray S.
BR121*, 122*
Pendleton, Joey
BR139*

Schickel, John
BR165*
Stine, Katie Kratz
BR57*, 58*
Tapp, Gary
BR70*

House

Adkins, Rocky
BR251
Belcher, Linda
BR229*, 230*, 231*, 232*
Burch, Tom
BR185*, 216*, 250*, 300*
Cherry, Mike
BR367*
Clark, Larry
BR213*, 251
Collins, Hubert
BR164*, 251
Coursey, Will
BR135*, 251
Crenshaw, Jesse
BR1*, 182*
Crimm, Ron
BR50*
BR65*, 66*
Damron, Robert R.
BR15*, 16*, 251
Denham, Mike
BR251, 262*
BR268*
BR341*
DeWeese, Bob M.
BR216*
Dossett, Myron
BR238*, 239*, 240*
Edmonds, Ted
BR334*
Farmer, Bill
BR124
BR159*, 265*
Firkins, Tim
BR251
Fischer, Joseph M.
BR54
Flood, Kelly
BR251
Floyd, David
BR98*
BR124*
Glenn, Jim
BR107*, 108*
Greer, Jeff
BR23*, 24*
Hall, Keith
BR251
Higdon, Jimmy
BR174*, 176*, 178*, 222*
Jenkins, Joni L.
BR145*
Keene, Dennis
BR275*, 276*, 277*
Kerr, Thomas
BR54
Lee, Stan
BR54*
BR115*
Marzian, Mary Lou
BR93*
Montell, Brad
BR79*, 82*, 86*

Nelson, Rick G.
BR75*, 118*, 168*, 169*
BR197*
Nesler, Fred
BR187
Overly, Sannie
BR251
Owens, Darryl T.
BR95*, 98, 172*
Palumbo, Ruth Ann
BR251
Richards, Jody
BR20*, 47*, 120*, 123*
BR132*
BR133*, 180*, 237*
Riner, Tom
BR38*, 251
Siler, Charles
BR60*
Simpson, Arnold
BR48*, 49*, 87*
Stacy, John Will
BR251
Steele, Fitz
BR73*
BR142*
BR187*
Stumbo, Greg
BR251*
Tilley, John
BR210*
Wayne, Jim
BR2*
Yonts, Brent
BR114*

Index Headings

Administrative Regulations and Proceedings
Advertising
Aged Persons and Aging
Agriculture
Alcoholic Beverages
Alcoholism
Animals, Livestock, and Poultry
Appropriations
Associations
Athletics
Attorney General
Attorney, Commonwealth’s
Attorney, County
Attorneys
Children and Minors
Circuit Clerks
Cities
Civil Actions
Civil Procedure
Commendations and Recognitions
Communications
Constitution, Ky.
Constitution, U.S.
Consumer Affairs
Contracts
Corporations
Corrections and Correctional Facilities, State
Counties
County Clerks
Courts
Courts, Circuit
Courts, District
Courts, Fiscal

Crime Victims
Crimes and Punishments
Criminal Procedure
Deaths
Disabilities and the Disabled
Diseases
Distilled Spirits
Dogs
Domestic Relations
Drugs and Medicines
Economic Development
Education, Elementary and Secondary
Education, Finance
Education, Higher
Effective Dates, Delayed
Effective Dates, Emergency
Elections and Voting
Embalmers and Funeral Directors
Environment and Conservation
Federal Laws and Regulations
Financial Responsibility
Firearms and Weapons
Firefighters and Fire Departments
Foods
General Assembly
Guardians
Health and Medical Services
Highways, Streets, and Bridges
Historical Affairs
Hospitals and Nursing Homes
Housing, Building, and Construction
Insurance
Insurance, Health
Insurance, Motor Vehicle
Interlocal Cooperation
Jails and Jailers
Judges and Court Commissioners
Justices of the Peace and Magistrates
Licensing
Local Government
Malt Beverages
Medicaid
Memorials
Men
Mental Disability
Mental Health
Military Affairs and Civil Defense
Motor Vehicles
Nurses
Occupations and Professions
Parental Rights
Parks and Shrines
Peace Officers and Law Enforcement
Physicians and Practitioners
Police, City and County
Police, State
Probation and Parole
Public Health
Public Officers and Employees
Public Records and Reports
Railroads
Reorganization
Retirement and Pensions
Safety
Secretary of State
Sheriffs
Small Business
Special Districts
State Agencies
State Employees
State Symbols and Emblems
Studies Directed
Substance Abuse
Taxation

Taxation, Income--Corporate
Taxation, Income--Individual
Taxation, Inheritance and Estate
Taxation, Sales and Use
Teachers
Tobacco
Trade Practices and Retailing
Traffic Safety
Transportation
United States
Universities and Colleges
Veterans’ Affairs
Waterways and Dams
Wills and Estates
Women

BR Index

Administrative Regulations and Proceedings

Deficient administrative regulations, declare null, void, and unenforceable - BR300
Kentucky
Board of Education, guidelines for charter school applicants - BR115
Board of Education, requirements for public school academy applicants - BR79

Advertising

Limited supplemental highway guide signs, adjust reimbursement methods for - BR47

Aged Persons and Aging

Colon Cancer Screening Program, provide funding for - BR216

Agriculture

Industrial hemp, licensing and growing of - BR139

Alcoholic Beverages

DUI, ignition interlock device, use of - BR275
Gross receipts from package alcohol sales, exempt from sales and use tax - BR159
Shock probation, availability in DUI cases - BR38
Wholesale sales tax, rate reduction - BR265

Alcoholism

DUI, ignition interlock device, use of - BR275

Animals, Livestock, and Poultry

Rabies Awareness Month, June 2010, designation - BR268

Appropriations

Colon Cancer Screening Program, ap-

propriation for - BR216

Associations

State retirement systems, bodies participating in, open records law, application of - BR87

Athletics

Public school academy students, participation in - BR79
School-sponsored sports event, participation in not to diminish attendance record - BR82

Attorney General

Prerecorded political messages, enforcement of prohibition to Do Not Call numbers - BR174

Attorney, Commonwealth’s

Expungement of records,criminal history - BR49

Attorney, County

Domestic violence, orders of protection - BR262

Attorneys

Constitutional oath, change to - BR172

Children and Minors

Auditory screening report, definition of - BR10
Child custody, temporary, provide for - BR230
Criminal gangs - BR120
Custody determination, additional factor for - BR65
Domestic violence, orders of protection - BR262
Nude image of minor, transmission, possession - BR20
Sexual abuse in the first degree, by person operating confinement facility - BR202
Technology, middle school students - BR132

Circuit Clerks

Personal identification cards, allow notation of autism on - BR122

Cities

Public school academy, possible sponsor of - BR79

Civil Actions

Child custody determination, additional factor for - BR65
Direct care staff, ICF/MR resident, failure to supervise, penalties - BR229
Domestic violence, orders of protection - BR262

Maintenance orders for spouses, availability of automatic payment methods - BR65
Orders, domestic violence, use of global positioning monitoring - BR251

Civil Procedure

Domestic violence, orders of protection - BR262

Commendations and Recognitions

“Jerry Chesnut Highway,” designate in Harlan County - BR142
Rabies Awareness Month, June 2010, designation - BR268
Ridgetop Tribe of Shawnee Indians, commend - BR197

Communications

Prerecorded political messages, prohibit to telephone numbers on Do Not Call Registry - BR174

Constitution, Ky.

Definition of marriage, repeal of - BR93
General Assembly, sessions of, limit to 30 days each year - BR178
Oath of office, change to - BR172
Section 1, urge Congress not to infringe on - BR124
Voting rights for felons, constitutional amendment to provide - BR1

Constitution, U.S.

Second Amendment, urge support of - BR124
Tenth
Amendment, limits of federal power and nullification of Constitution under - BR50
Amendment, state sovereignty - BR54

Consumer Affairs

Vehicle insurance claims, clarify rights of claimant to choose repair shop - BR70

Contracts

District owned vehicles, prohibiting use of - BR169

Corporations

Public school academy, possible non-profit sponsor of - BR79

Corrections and Correctional Facilities, State

Food service for inmates, prohibition on privatization of - BR114
Gang, criminal - BR237
Inmate disciplinary reports, expungement if dismissed or voided - BR182
Murder, registration of offenders - BR277
Orders, domestic violence, use of global positioning monitoring - BR251

Sexual abuse in the first degree, by person operating confinement facility - BR202

Counties

Consolidation, adjoining counties - BR334
Public school academy, possible sponsor of - BR79

County Clerks

Gold Star Mothers or Gold Star Spouses special license plates, additional plates, purchase of - BR238
Registered independents, primaries, participation in - BR222
Special military-related plates, unlimited purchase of - BR238

Courts

Child custody, temporary, provide for - BR230
Severe mental illness, defined - BR98

Courts, Circuit

Child custody determination, additional factor for - BR65
Domestic violence, orders of protection - BR262
Expungement of records,criminal history - BR49
Maintenance orders for spouses, availability of automatic payment methods - BR65
Public school academy contract decisions, right to appeal to - BR79

Courts, District

Child custody determination, additional factor for - BR65
Domestic violence, orders of protection - BR262
Maintenance orders for spouses, availability of automatic payment methods - BR65
Nude image of minor, transmission, possession - BR20
Orders, domestic violence, use of global positioning monitoring - BR251

Courts, Fiscal

Consolidation, adjoining counties - BR334

Crime Victims

Expungement of records,criminal history - BR49
Gang, criminal - BR237
Murder, registration of offenders - BR277

Crimes and Punishments

Acupuncture, practicing without a license, penalty for - BR250
Assault, commission by strangulation against family member - BR341

Criminal gangs - BR120
Dating violence - BR133
Death penalty, abolish - BR185
Direct care staff, ICF/MR resident, failure to supervise, penalties - BR229
Domestic violence, dating partners, include - BR145
violence, trespass at shelter for abused - BR262
DUI, ignition interlock device, use of - BR275
Expungement of records,criminal history - BR49
Gang, criminal - BR237
Murder, registration of offenders - BR277
Nonsupport and flagrant non-support, spouse and ex-spouse - BR65
Nude image of minor, transmission, possession - BR20
Severe mental illness, defined - BR98
Sexual abuse in the first degree, by person operating confinement facility - BR202
Shock probation, availability in DUI cases - BR38
Theft offense, drivers license eligibility when restitution is unpaid - BR95

Criminal Procedure

Assault, commission by strangulation against family member - BR341
Criminal gangs - BR120
Dating violence - BR133
Death penalty, abolish - BR185
Domestic violence, dating partners, include - BR145
violence, trespass at shelter for abused - BR262
DUI, ignition interlock device, use of - BR275
Expungement of records,criminal history - BR49
Gang, criminal - BR237
Murder, registration of offenders - BR277
Nonsupport and flagrant non-support, spouse and ex-spouse - BR65
Nude image of minor, transmission, possession - BR20
Severe mental illness, defined - BR98
Sexual abuse in the first degree, by person operating confinement facility - BR202
Shock probation, availability in DUI cases - BR38
Theft offense, drivers license eligibility when restitution is unpaid - BR95

Deaths

Dead human bodies, initial removal, requirements for - BR48

Disabilities and the Disabled

Auditory screening report, definition of - BR10
Autism, allow notation of on personal identification cards - BR122
Direct care staff, ICF/MR resident, failure to supervise, penalties - BR229
Insurance, autism spectrum disorders,

coverage for - BR121

Diseases

Cancer clinical trials, treatment, health plans for - BR96
Colon Cancer Screening Program, provide funding for - BR216
Rabies Awareness Month, June 2010, designation - BR268

Distilled Spirits

Wholesale sales tax, rate reduction - BR265

Dogs

Rabies Awareness Month, June 2010, designation - BR268

Domestic Relations

Assault, commission by strangulation against family member - BR341
Child custody determination, additional factor for - BR65
Constitutional amendment, definition of marriage, repeal of - BR93
Dating violence - BR133
Domestic violence, dating partners, include - BR145
violence, orders of protection - BR262
Maintenance orders for spouses, availability of automatic payment methods - BR65
Orders, domestic violence, use of global positioning monitoring - BR251

Drugs and Medicines

Cancer clinical trials, treatment, health plans for - BR96
Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Economic Development

Government Economic Assistance Fund, balances in investment of - BR73
Water transportation, development of - BR135

Education, Elementary and Secondary

Charter schools, application and approval of - BR115
schools, limitations and requirements of - BR115
Digital citizenship definitions include in discipline code and professional development - BR231
District owned vehicles, prohibiting use of - BR169
Education Professional Standards Board, increase membership of - BR75
Kentucky educator award and recognition fund, creation of - BR123
Massey, Ed; National School Boards Association, support election to - BR165

National School Boards association, support Ed Massey for election to - BR165
Public school academies, application and approval of - BR79
school academies, limitations and requirements for - BR79
Student attendance, school-sponsored sports event - BR82
Suicide prevention awareness information to middle and high school students - BR232
Technology, middle school students - BR132

Education, Finance

Charter schools, transfer of funds for - BR115
Credit cards and personal debt management, requirement of instruction about - BR107
Kentucky educator award and recognition fund, creation of - BR123
Public school academies, transfer of funds - BR79

Education, Higher

Credit cards and personal debt management, requirement of instruction about - BR107
Education Professional Standards Board, increase membership of - BR75
Public school academy, possible sponsor of - BR79

Effective Dates, Delayed

BR 0066, gross revenues an dexcise tax fund, “hold-harmless amount” - BR66

Effective Dates, Emergency

Alcoholic beverage wholesale tax, reduce rates - BR265
BR 0187, Sales tax holiday - BR187
Child custody, spousal maintenance - BR65

Elections and Voting

Constitutional amendment, ballot on - BR172
Felons’ voting rights, constitutional amendment to provide - BR1
Prerecorded political messages, prohibit to telephone numbers on Do Not Call Registry - BR174
Registered independents, primaries, participation in - BR222

Embalmers and Funeral Directors

Dead human bodies, initial removal, requirements for - BR48

Environment and Conservation

Mold remediation, establish standards for - BR15

Federal Laws and Regulations

Constitution of United States, nullification by certain acts of federal government - BR50
Constitution, U.S., state sovereignty - BR54

Financial Responsibility

Credit cards and personal debt management, requirement of instruction about - BR107

Firearms and Weapons

Right to bear arms, urge support of - BR124

Firefighters and Fire Departments

Fire subdistricts, dissolution of - BR16

Foods

Burgoo, designate as state dish - BR108

General Assembly

Annual sessions, limit to 30 days each year - BR178
Constitution oath, change to - BR172
Deficient administrative regulations, declare null, void, and unenforceable - BR300
Legislators’ Retirement Plan, close plan to new entrants and establish new plan - BR86
Retirement, no consolidation of accounts under various systems for new members - BR176
Transportation committees, receive report of special license plate denials - BR164

Guardians

Direct care staff, ICF/MR resident, failure to supervise, penalties - BR229

Health and Medical Services

Acupuncture, licensing of - BR250
Auditory screening report, definition of - BR10
Cancer clinical trials, treatment, health plans for - BR96
Colon Cancer Screening Program, provide funding for - BR216
Hospitals contracts with insurer, required provisions - BR213
Insurance, autism spectrum disorders, coverage for - BR121
Mold remediation, establish standards for - BR15
Organ donation, nonrefundable tax credit, provide for - BR276
Psychologists, licensing of - BR12
Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Highways, Streets, and Bridges

“Jerry Chesnut Highway,” designate in Harlan County - BR142
DUI, ignition interlock device, use of - BR275
Limited supplemental highway guide signs, adjust reimbursement methods for - BR47
Personal communication device, prohibit the use of by drivers under the age of 18 - BR118
Railroad grade crossings; inspection of - BR168
Sergeant Justin A. Scott Memorial Highway, designate in the City of Bellevue - BR58
Shock probation, availability in DUI cases - BR38
Staff Sergeant Nicholas R. Carnes Memorial Highway, designate in the city of Dayton - BR57
Text messaging, prohibit while operating a motor vehicle - BR118, 180

Historical Affairs

Ridgetop Tribe of Shawnee Indians, commend - BR197

Hospitals and Nursing Homes

Acute care, definition for health insurance contract purposes - BR213

Housing, Building, and Construction

Mold remediation, establish standards for - BR15

Insurance

Audits, restrict use of lead or coordinating audit partner to five consecutive years - BR23
Hospitals contracts with insurer, required provisions - BR213
Insurer, protection of consumer financial information - BR24
Limited line of authority, rental vehicle - BR23
Loss run statement, written request to insurer - BR24
Rental vehicle agent and rental vehicle agent managing employee, define - BR23

Insurance, Health

Autism spectrum disorders, coverage for - BR121
Cancer clinical trials, treatment, health plans for - BR96
Hospitals contracts with insurer, required provisions - BR213

Insurance, Motor Vehicle

Claims, clarify rights of claimant to choose repair shop - BR70

Interlocal Cooperation

Consolidation, adjoining counties -

BR334

Jails and Jailers

Gang, criminal - BR237
Sexual abuse in the first degree, by person operating confinement facility - BR202

Judges and Court Commissioners

Orders, domestic violence, use of global positioning monitoring - BR251

Iustices of the Peace and Magistrates

Consolidation, adjoining counties - BR334

Licensing

Acupuncture, licensing of - BR250
Dead human bodies, initial removal, requirements for - BR48
Industrial hemp, growing of - BR139
Psychologists, licensing of - BR12
Theft offense, drivers license eligibility when restitution is unpaid - BR95

Local Government

Consolidation, adjoining counties - BR334
Fire subdistricts, dissolution of - BR16
Government Economic Assistance Fund, balances in investment of - BR73
Gross revenues and excise tax fund, “hold-harmless amount” - BR66
State retirement systems, bodies participating in, open records law, application of - BR87

Malt Beverages

Wholesale sales tax, rate reduction - BR265

Medicaid

Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Memorials

Carnes, Staff Sergeant Nicholas R., designate road in honor of - BR57
Designate road in honor of, Sergeant Justin A. Scott - BR58

Men

Assault, commission by strangulation against family member - BR341
Dating violence - BR133
Domestic violence, dating partners, include - BR145
violence, orders of protection - BR262
Orders, domestic violence, use of global positioning monitoring - BR251

Mental Disability

Direct care staff, ICF/MR resident, failure to supervise, penalties - BR229
Insurance, autism spectrum disorders, coverage for - BR121
Severe mental illness, defined - BR98

Mental Health

Insurance, autism spectrum disorders, coverage for - BR121
Psychologists, licensing of - BR12
Severe mental illness, defined - BR98

Military Affairs and Civil Defense

Gold Star Mothers or Gold Star Spouses special license plates, additional plates, purchase of - BR238
State Park overnight accommodations, exemption for disabled veterans - BR60
Veterans interviews, state employment, requirement for - BR367

Motor Vehicles

DUI, ignition interlock device, use of - BR275
Gold Star Mothers or Gold Star Spouses special license plates, additional plates, purchase of - BR238
Insurance claims, clarify rights of claimant to choose repair shop - BR70
Personal communication device, prohibit the use of by drivers under the age of 18 - BR118
Rental vehicles, insurance for - BR23
Shock probation, availability in DUI cases - BR38
Special license plates, require cabinet to report denials to transportation committees - BR164
Text messaging, prohibit while operating a motor vehicle - BR118, 180
Theft offense, drivers license eligibility when restitution is unpaid - BR95

Nurses

Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Occupations and Professions

Acupuncture, licensing of - BR250
Auditory screening report, definition of - BR10
Dead human bodies, initial removal, requirements for - BR48
Mold remediation, establish standards for - BR15
Psychologists, licensing practitioners of - BR12

Parental Rights

Child custody determination, additional factor for - BR65

Parks and Shrines

State Park overnight accommodations, exemption for disabled veterans - BR60

Peace Officers and Law Enforcement

Domestic violence, dating partners, include - BR145
Gang, criminal - BR237

Physicians and Practitioners

Acupuncturists, licensing of - BR250
Colon Cancer Screening Program, provide funding for - BR216
Psychologists, licensing of - BR12
Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Police, City and County

Criminal gangs - BR120
Domestic violence, dating partners, include - BR145
Gang, criminal - BR237

Police, State

Criminal gangs - BR120
Domestic violence, dating partners, include - BR145
Gang, criminal - BR237
Murder, registration of offenders - BR277

Probation and Parole

Gang, criminal - BR237
Murder, registration of offenders - BR277

Public Health

Mold remediation, establish standards for - BR15
Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Public Officers and Employees

Constitution oath, change to - BR172
Legislative retirement, no consolidation of accounts under various systems for new legislators - BR176
Legislators’ Retirement Plan, close plan to new entrants and establish new plan - BR86
State retirement systems, bodies participating in, open records law, application of - BR87
Veterans interviews, requirement for - BR367

Public Records and Reports

Expungement of records,criminal history - BR49
Gang, criminal - BR237
State retirement systems, bodies participating in, open records law, application of - BR87

Railroads

Inspection of rail grade crossings -

BR168

Reorganization

Consolidation, adjoining counties - BR334

Retirement and Pensions

Kentucky Employees Retirement System, close plan to new legislators and establish new plan - BR86
Legislative retirement, no consolidation of accounts under various systems for new legislators - BR176
Legislators’ Retirement Plan, close plan to new entrants and establish new plan - BR86
State retirement systems, bodies participating in, open records law, application of - BR87

Safety

Personal communication device, prohibit the use of by drivers under the age of 18 - BR118
Text messaging, prohibit while operating a motor vehicle - BR118, 180

Secretary of State

Constitutional amendment, definition of marriage, repeal of - BR93
Registered independents, primaries, participation in - BR222

Sheriffs

Sexual abuse in the first degree, by person operating confinement facility - BR202

Small Business

Acupuncturists, licensing of - BR250
Industrial hemp, licensing and growing of - BR139
Sales tax refund program - BR239

Special Districts

Fire subdistricts, dissolution of - BR16

State Agencies

Cabinet for Health and Family Services, provide suicide prevention awareness information - BR232
Corrections, use of privatized inmate food service in prison - BR114
Deficient administrative regulations, declare null, void, and unenforceable - BR300
District owned vehicles, prohibiting use of - BR169
Education Professional Standards Board, increase membership of - BR75
Employment, veterans interviews, requirement for - BR367
Health & Family Services, ICF/MR resident, failure to supervise, penalties - BR229

Kentucky
Board of Education, Kentucky Public School Academy Commission, creation of - BR79
Department of Education, administration of educator award and recognition fund - BR123
Department of Education, Charter Schools, responsibilities relating to - BR115
Department of Education, Kentucky Charter School Advisory Committee, establishment of - BR115
Department of Education, public school academies, responsibilities for - BR79
State
Park overnight accommodations, exemption for disabled veterans - BR60
retirement systems, bodies participating in, open records law, application of - BR87
Transportation Cabinet, report special license plate denials to transportation committees - BR164
Water Transportation Advisory Board, establishment of - BR135

State Employees

Health insurance, autism spectrum disorders, coverage for - BR121
Organ donation, nonrefundable tax credit, provide for - BR276
Veterans interviews, requirement for - BR367

State Symbols and Emblems

State dish, designate burgoo as - BR108

Studies Directed

Technology, middle school students - BR132

Substance Abuse

DUI, ignition interlock device, use of - BR275

Taxation

Alcoholic beverage wholesale tax, reduction - BR265
Gross revenues and excise tax fund, “hold-harmless amount” - BR66
Income tax, wellness project credit - BR210
Individual income tax, exempt wages paid by a small business with five or fewer employees - BR240
Organ donation, nonrefundable tax credit, provide for - BR276
Sales and use tax, exempt gross receipts from sales of package alcohol - BR159 and use tax, holiday - BR187
tax, small business, refund program - BR239
Tax reform package, income, estate, and sales taxes - BR2

Taxation, Income--Corporate

Wellness project credit - BR210

Taxation, Income--Individual

Earned income credit, creation of - BR2
Exempt wages paid by a small business with five or fewer employees - BR240
Organ donation, nonrefundable tax credit, provide for - BR276
Tax rates, increase on higher incomes - BR2
Wellness project credit - BR210

Taxation, Inheritance and Estate

Federal estate tax, decouple from - BR2

Taxation, Sales and Use

Alcoholic beverage wholesale tax, reduction - BR265
Holiday, clothing, school supplies, school art supplies, computers, school computer supplies - BR187
Sales of package alcohol, exempt gross receipts - BR159
Services, taxation of selected - BR2
Small business, refund program - BR239

Teachers

Digital citizenship definitions include in professional development - BR231
Student attendance records, completion of - BR82

Tobacco

Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11

Trade Practices and Retailing

Motor vehicle insurers, define and prohibit deceptive practices - BR70
Vehicle insurance claims, clarify rights of claimant to choose repair shop - BR70

Traffic Safety

DUI, ignition interlock device, use of - BR275
Railroad grade crossings; inspection of - BR168
Shock probation, availability in DUI cases - BR38

Transportation

Gold Star Mothers or Gold Star Spouses special license plates, additional plates, purchase of - BR238
Limited supplemental highway guide signs, adjust reimbursement methods for - BR47
Personal communication device, prohibit the use of by drivers under the age of 18 - BR118
Railroad grade crossings; inspection of - BR168
Sergeant Justin A. Scott Memorial High-

way, designate in the City of Bellevue - BR58
special military-related plates, unlimited purchase of - BR238
Staff Sergeant Nicholas R. Carnes Memorial Highway, designate in the city of Dayton - BR57
Text messaging, prohibit while operating a motor vehicle - BR118, 180
Water, development of - BR135

United States

Criminal gangs - BR120
Mandates, federal, under the U.S. Constitution - BR54
Tenth Amendment, limits of federal power and nullification of Constitution under - BR50

Universities and Colleges

Credit cards and personal debt management, requirement of instruction about - BR107
Education Professional Standards Board, increase membership of - BR75
Public school academy, possible sponsor of - BR79

Veterans’ Affairs

Gold Star Mothers or Gold Star Spouses special license plates, additional plates, purchase of - BR238
Special military-related plates, unlimited purchase of - BR238
State
employment, interviews, requirement for - BR367
Park overnight accommodations, exemption for disabled veterans - BR60

Waterways and Dams

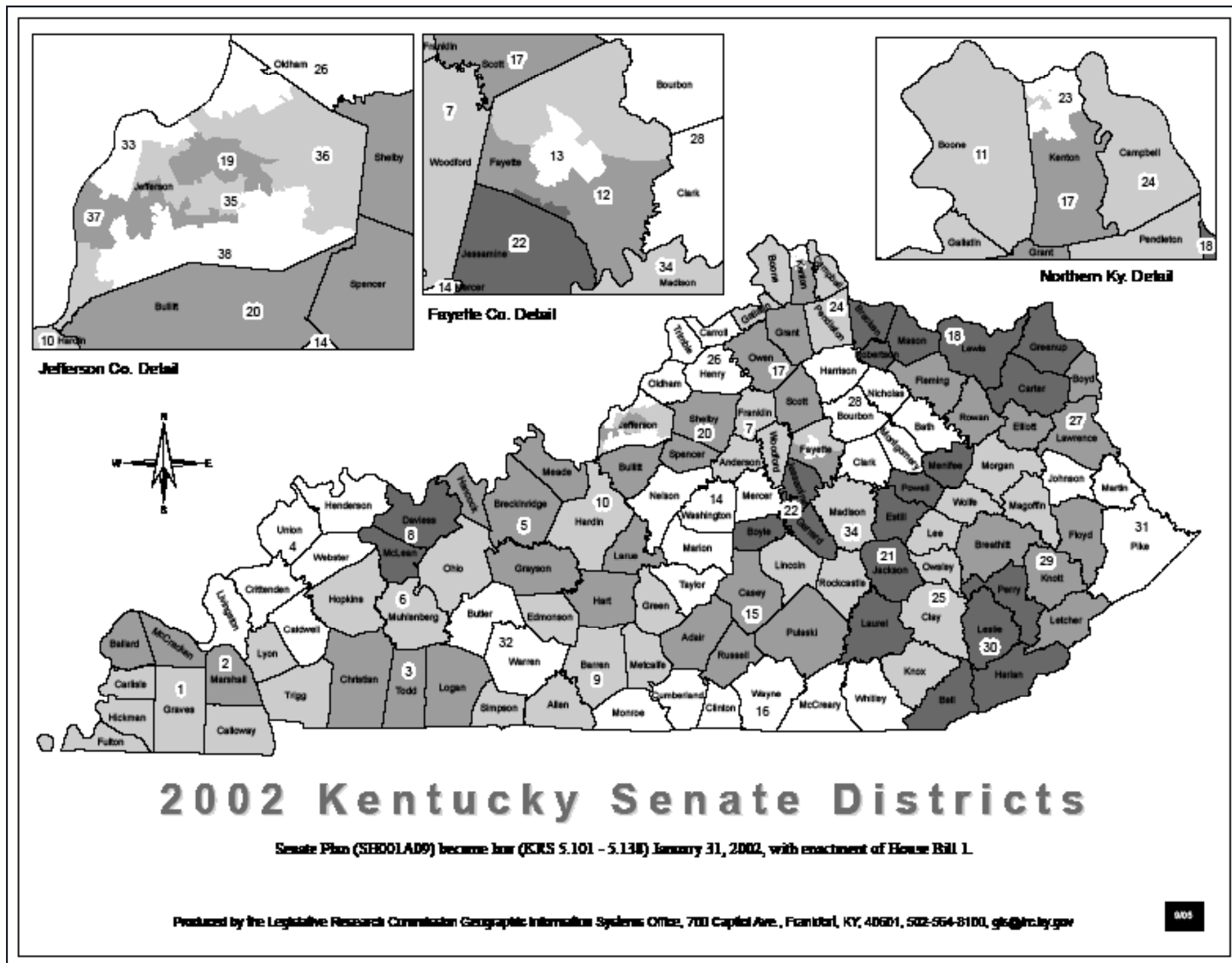
Water transportation, development of - BR135

Wills and Estates

Federal estate tax, decouple from - BR2

Women

Assault, commission by strangulation against family member - BR341
Dating violence - BR133
Domestic violence, dating partners, include - BR145
violence, orders of protection - BR262
Orders, domestic violence, use of global positioning monitoring - BR251
Smoking cessation treatment, pregnant women, Medicaid coverage of - BR11



Banks, page 2

million spread among them — less than the nationwide average for a single bank.

Vice also pointed to a new bank that opened in Kentucky earlier this year, with another group inquiring about opening a new bank despite the increased capital requirements that now are mandated on new banks. “That’s a positive sign,” he said.

Vice, Stamper, and KBA’s Jim

Cooper also pointed to increased FDIC requirements as putting a crimp in banks’ profits. Vice noted that the FDIC’s reserves, collected as a fee from member banks and used to cover the assets of banks that go out of business, was down to \$10 billion, or 0.22 percent of nationwide assets, because the number of failing banks has sapped the reserve fund. The FDIC minimum is 1.15 percent. As a result, the FDIC has instituted a special supplement that banks must pay along with requir-

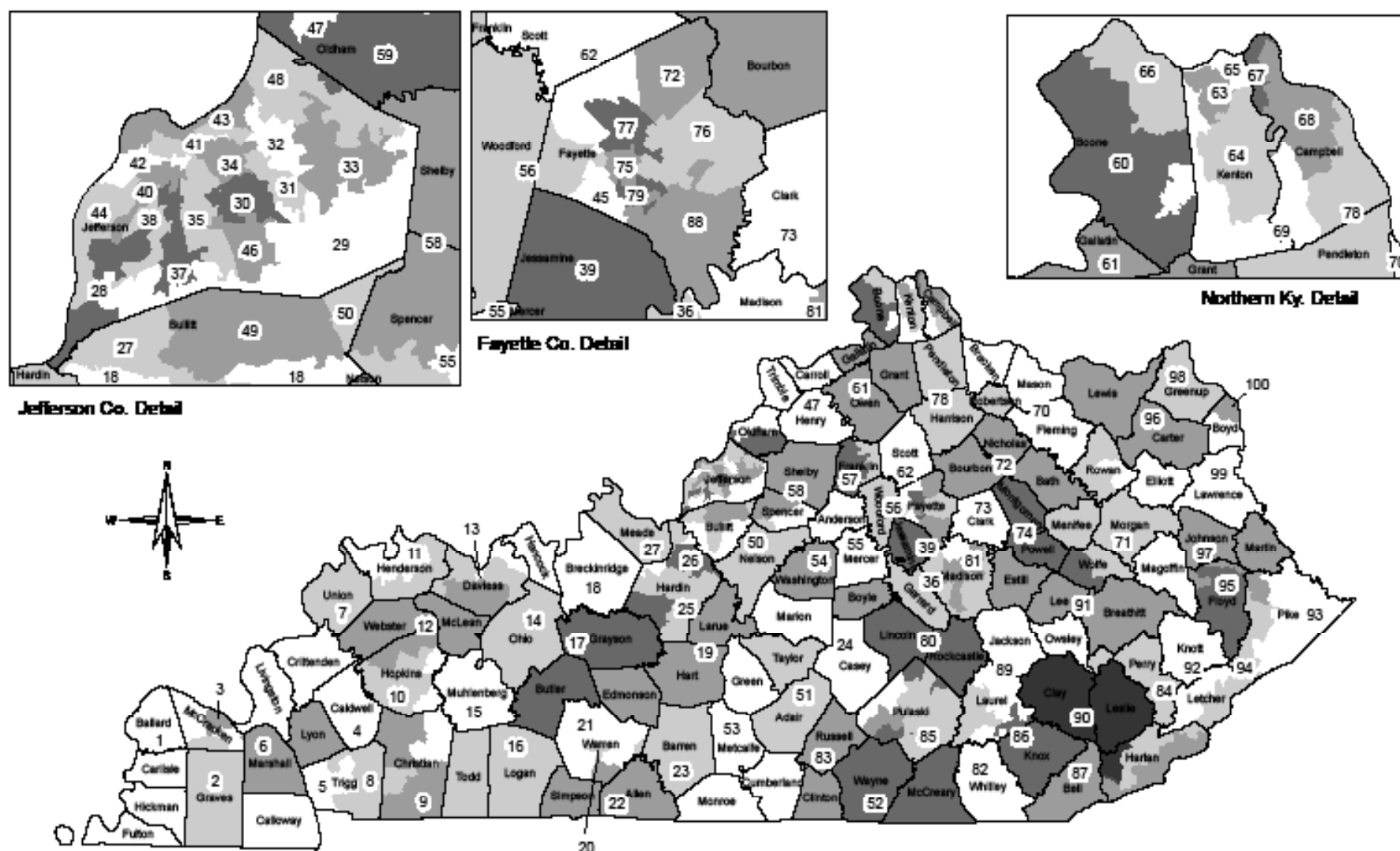
ing pre-payment of their insurance premiums through 2012.

“The FDIC assessment is taking 30 or 40 percent of bank profits in some cases,” said Rep. Mike Denham, D-Maysville.

Stamper also railed against federal legislation, not yet passed by the U.S. House of Representatives, to create a Consumer Financial Protection Agency. Such a law would overburden an industry that is largely working well, she said.

Denham and House Majority Caucus Chair Bob Damron, D-Nicholasville, said legislation to regulate credit default swaps and other derivatives was a more pressing need. “If we don’t fix this core problem, we’ll have another financial crisis in the future,” Denham said.

Damron said the National Conference of Insurance Legislators, of which he is president-elect, will likely pass model legislation in November to put pressure on Congress in that area.



2002 Kentucky House Districts

House Plan (HH001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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905



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