

# 2013 Interim LEGISLATIVE

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\* Read on-line at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm)\*



## RECORD

## Farm Bill concerns aired before state panel

by Rebecca Hanchett  
*LRC Public Information*

While the federal government was shutting down at midnight on Oct. 1, another important piece of federal policy—the U.S. Farm Bill—expired.

Congress has still not reached agreement on a new Farm Bill, which authorizes most spending under the USDA. But as the Kentucky Farm Bureau's National Affairs and Political Education Director Joe Cain told the Interim Joint Committee on Agriculture on Oct. 9, an agreement could be in the works.

Cain explained that although debate on a "continuing resolution," or CR, for the long term is the current hot topic on Capitol Hill (the CR that the federal government is now operating under only funds the government through Jan. 15, 2014), the U.S. House was intent in early Oct. to name conferees who would work with the Senate on agreeing to—and passing—a new Farm Bill by the end of the year.

Farm Bill conferees have since been named



Rep. Tom McKee



Sen. Paul Hornback

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## Revenue forecasters discuss Kentucky, national economy

by Rebecca Hanchett  
*LRC Public Information*

Manufacturing growth in Kentucky is expected to exceed U.S. growth in that sector in coming years despite a 19 percent decline in the state's manufacturing jobs during the recent recession, state budget officials say.

Greg Harkenrider from the Office of the State Budget Director told the Consensus Forecasting Group at its Oct. 2 meeting that while the industry is "nowhere near recovering—in fact, we never recovered from the 2001 recession"—manufacturing is expected to grow faster in Kentucky going forward than it is nationally.

Currently, 13.5 percent of the state's labor force is in manufacturing, said Harkenrider, calling the industry's growth forecast for Kentucky "one of the few bright spots" in the state's economic forecast.

"Since it's an overrepresented part of the labor force, that's good news," he said.

Overall, Harkenrider said Kentucky fared better than the nation during the recession due to

its diverse economy, including energy markets, but that the state's future economic growth is not expected to be as robust as the nation's. Economic models indicate that overall, nonfarm employment growth in Kentucky will fall behind the U.S., he told the panel.

Concerning personal income, state budget data shows that Kentucky outpaced the U.S. in personal income growth before and during the last recession

due in part to Kentucky's large share of transfer payments in relation to the U.S. Transfer pay-



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## Sorghum-to-ethanol ideas aired before panel

by Rebecca Hanchett  
*LRC Public Information*

Kentucky state lawmakers, biofuel experts, and farmers met on Oct. 18 in Frankfort to discuss the feasibility of producing ethanol from sweet sorghum in the Commonwealth.

The state legislative Special Subcommittee on Energy was told by Dr. Michael Montross of the University of Kentucky's Food and Bioprocess Engineering Department that the juice of sweet sorghum—a stalk-like plant used primarily to make food syrup in North America—is simple to convert to ethanol, adding that fermentation of sweet sorghum into ethanol right on the farm is possible.

"We'll end up with a stable product" at 10-percent ethanol concentration, said Montross, adding some water would have to be removed from the product to "make it economical to transport."

While processing ethanol from the juice of sweet sorghum is easy, Montross said there are some issues to consider. First, Kentucky's window to process juice from sweet sorghum stalks is relatively short, running from around August until frost. Storage of the stalks is also problematic since storing them in a silage pile creates high sugar losses, said Montross.

It is the sugar in the plant's stalk (derived from the stalk's stem juice) that allows sweet sorghum

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## CFG, from page 1

ments accounted for 24.2 percent of personal income in Kentucky in fiscal year 2012 compared to 16.9 percent nationally. Transfer payments are payments made without any exchange of goods or services, and may include public spending or private-sector spending.

After the recession, since fiscal year 2011 or so, state budget data reveals that personal income in Kentucky has not grown as quickly as before. That has been due in part to a lag in nonfarm employment coming out of the recession, said Harkenrider.

It is not personal income but rather wages and salaries that are a stronger predictor of the state's General Fund "than probably any other one we're doing," Harkenrider told the CFG. During the twin recessions in the early 1980s, he said, Kentucky wages and salary growth hit a plateau

between fiscal years 1983 and 1985 while the U.S. continued to grow. "Since then we've sort of never converged those lines," he told the panel.

Wages and salaries have grown more nationally in the aftermath of the last recession than in Kentucky—and are expected to rise 21.4 percent at the U.S. level until the end of fiscal year 2014 compared to 13.2 percent in the Commonwealth, said Harkenrider. That is typical based on past post-recession experience, he explained. The peak-to-trough declines in wages and salaries have been less dramatic for Kentucky post-recession (3.3 percent) compared to the U.S. (5.1 percent) but the state will experience what he called "growing pains" moving forward.

In addition to a discussion of the U.S. economic forecast, the CFG asked Harkenrider and his staff to discuss the state's revenue receipts to date for this fiscal year and their relation to the current CFG estimate of \$9.523.9 billion for fiscal year 2014.

Harkenrider said state General Fund receipts have grown 2.9 percent over the prior year (to date) and need to grow by another 1.7 percent this year to meet the official estimate.

"In aggregate, we appear squarely on pace to hit or slightly exceed the 2014 estimate," said Harkenrider. September receipts will determine whether the state stays on that course, he explained.

State budget officials also briefly discussed growth in the state Road Fund, which pays for state road and transportation needs. They reported Road Fund receipts grew 8.3 percent in August, buoyed in part by an 11.5 percent increase in the state motor fuels tax.

The CFG will meet again on Friday, Oct. 11 to hear more testimony. It will probably meet in December to issue its official budget forecast for fiscal years 2014, 2015, and 2016. It must issue the forecast before the 15th legislative day of the 2014 Regular Session.

## 2014 Regular Session begins Jan. 7

The 2014 Regular Session is scheduled to convene on Jan. 7 and adjourn April 15. It is expected to last 60 working days – the maximum allowed by the state constitution in even-numbered years.

Legislators will not meet in session on Jan. 20 in observance of Martin Luther King, Jr. Day, or on Feb. 17 in observance of Presidents' Day.

The veto recess – the period of time in which lawmakers return to their home districts to await possible gubernatorial vetoes of legislation – will last from April 1-11. Lawmakers will return to the Capitol on April 14 and 15 for the final two days of the session. The session calendar can be viewed at: [http://www.lrc.ky.gov/sch\\_vist/14RS\\_calendar.pdf](http://www.lrc.ky.gov/sch_vist/14RS_calendar.pdf).

## Farm Bill, from page 1

and were expected to begin hashing out an agreement beginning in late October, according to news reports.

"Serious action" on a new Farm Bill, however, may not be seen until December, Cain said at the Oct. 9 meeting.

The major differences between the House and Senate Farm Bill proposals in early Oct. involved federal nutrition benefits and assistance, Cain explained. He said the Senate had proposed reducing SNAP by \$4 billion over 10 years while the House had proposed nearly \$40 billion in reductions over the same period. "So, how they come to an agreement that would be able to pass a conference report is going to be of interest..." he said.

Other issues of interest in the Farm Bill debate is whether payments on acres under commodity title will be linked to base acres as proposed by the Senate or planted acres as proposed by the House, and the matter of parity, which Cain said determines what the price of milk supports would be. Additionally, the lapse of the Farm Bill has resulted in the expiration of dairy safety net programs

under what is called the Milk Income Loss Contract, or MILC.

House Agriculture and Small Business Committee Chairman Rep. Tom McKee, D-Cynthiana, asked Cain what would happen to the price of milk by Jan. 1 if nothing is done by Congress. While the effect would not be immediate, Cain said the price of a gallon at the grocery could "easily" rise to \$5-\$6 a gallon as milk supports rise to \$40 per hundredweight (cwt.) from the current \$18 per hundredweight range. The public would

Senate Agriculture Committee

Chairman Paul Hornback,

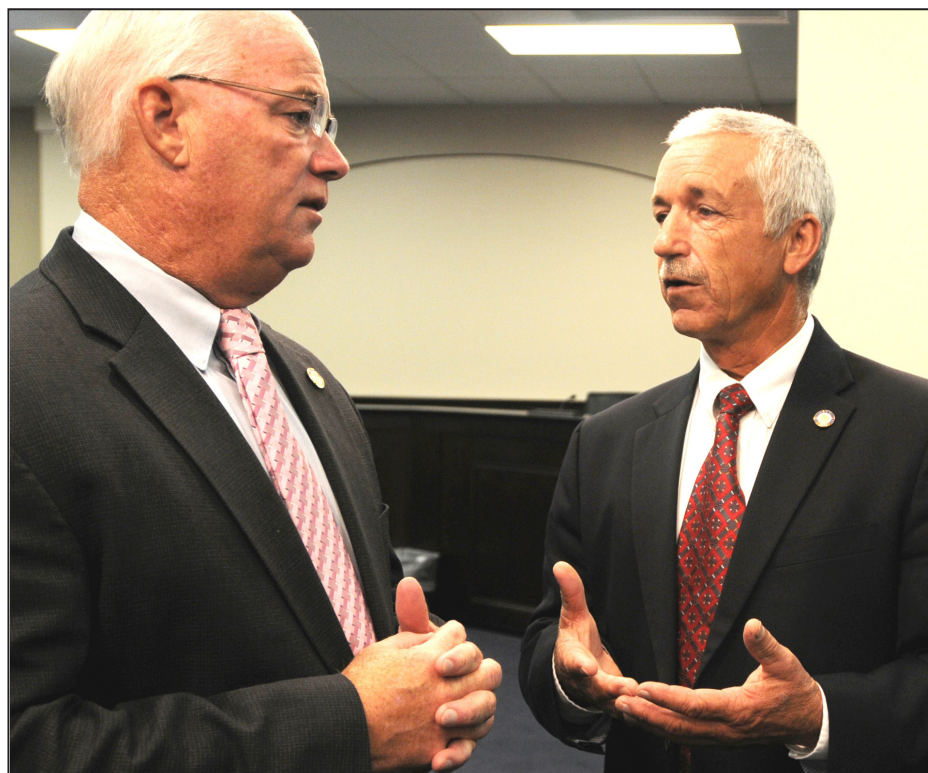
R-Shelbyville, on right,

speaks with

Sen. Dennis Parrett,

D-Elizabethtown,

before the Oct. 9 meeting.



probably see the price of milk increase in February or March after the USDA finishes calculating "a totally new approach," said Cain.

"The dairy industry right now is probably the one that is most in question right now," said Cain.

Senate Agriculture Committee Chairman Sen. Paul Hornback, R-Shelbyville, said another concern is the effect of the recent shutdown on farmers who finance through the U.S. Farm Service Agency and were in the process of harvesting their crops

during the shutdown. Because of the shutdown, those farmers were unable to get their FSA checks endorsed at local FSA offices as required, said Hornback.

"That is one of the major concerns—just so we don't forget that," he added.

Ultimately, Cain said he believes a Farm Bill could be passed "fairly quickly" if the House and Senate Farm Bill conferees meet and agree, adding that "95 percent of the Farm Bill language is...easily conferenced."



# Sorghum-to ethanol,

from page 1

to be used as fermentation material for producing ethanol, according to biofuel researchers.

Transportation costs are another issue, Montross explained. While a semi truck can hold roughly 900 bushels of corn—which can produce around 3,300 gallons of ethanol—one semi truck can “optimistically” hold enough sweet sorghum stalks to produce 600-900 gallons of stem juice, he told lawmakers.

“That quickly gets expensive trying to truck that,” he said.

Using sweet sorghum to make ethanol is still a fairly new concept in the U.S, according to researchers. The process is more widespread in nations like China and India.

Montgomery County farmer Danny Townsend’s family has been growing sweet sorghum for over 100 years, he told the subcommittee. While syrup production is still the primary use of the crop, Townsend

said there are many other uses, including production of ethanol, rubber, carpeting—even water bottles.

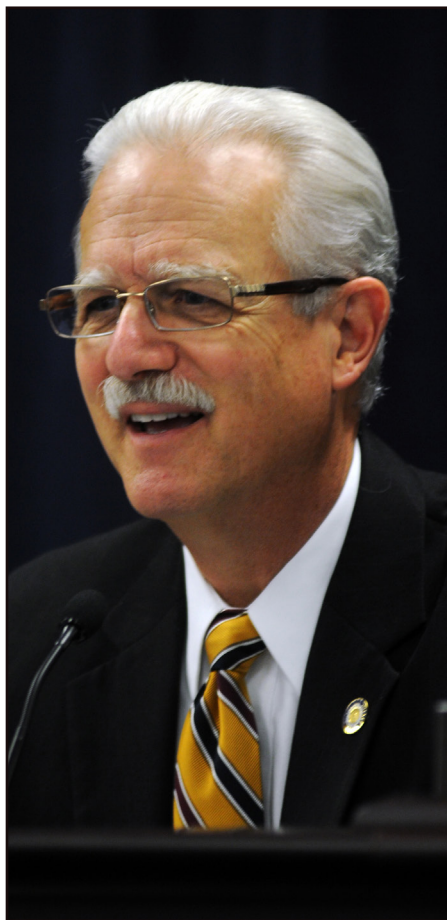
Townsend said sweet sor-

Using sweet sorghum to make ethanol is still a fairly new concept in the U.S.

ghum is fast-growing (some varieties can be grown in 120 days, he said) and inexpensive to grow. The total cost to seed, fertilize, and apply herbicide on an acre of sweet sorghum is around \$125, he said. Comparably, Townsend said the seed alone for an acre of corn costs about that much.

Former state lawmaker and fellow Montgomery County farmer Adrian Arnold said he appreciates the subcommittee’s effort to look at Kentucky sweet sorghum as a possible fuel source. He explained that sweet sorghum is a good crop for older farmers in particular to grow.

“A lot of our farmers are getting older and all they have to do is plant the seed and get a field chopper to



Above: Sen. Ernie Harris, R-Prospect, poses a question during the Oct. 18 Special Subcommittee on Energy meeting. Bottom: Special Subcommittee on Energy Co-Chair Rep. Richard Henderson, D-Mt. Sterling, fields questions during testimony at the meeting.



harvest it,” said Arnold.

The subcommittee also received testimony today on developments in energy efficiency for manufactured housing. Representatives from East KY Power Cooperative, Nextstep Housing, and the Kentucky Energy and Environment Cabinet were on the agenda to speak on the topic.

# State oversight of city, county finances discussed

by Rebecca Hanchett  
LRC Public Information

A discussion of state-level monitoring of county and city finances on Oct. 23 revealed that Kentucky county finances receive more state oversight than cities’, and that providing the same oversight for cities could be quite costly.

State Auditor Adam Edelen told the Interim Joint Committee on Local Government that state law requires his office

to audit the finances of each county government in the state annually. The office currently performs or oversees around 600 statutorily-required county audits per year, he

said. It is not required to conduct annual audits of cities—a job that would add around 419 audits to his office’s annual workload, he said. When the State Auditor’s Office does get involved in city audits, it is usually because of “an allegation of waste, fraud, or abuse that is significant,” said Edelen.

Performing audits of all 419 cities on a regular basis would require “a significant addition of resources,” he said.

Committee Co-Chair Rep. Steve Riggs, D-Louisville, asked Edelen if his office could possibly alternate its audits of county finances with audits of city finances. Edelen replied no, adding he doesn’t want to “diminish” his office’s level of statutory oversight of county finances.

Still, most Kentucky cities—at least 300—are subject to annual audits on their own, with those audits sent to the state Department for Local Government (DLG), state officials say. Some lawmakers seem comfort-

able with the current system of auditing and financial oversight of special districts and cities. Flagged city audits received by DLG, for example, can be sent to the State Auditor’s Office for further investigation, explained Senate Majority Floor Leader Damon Thayer, R-Georgetown.

“I felt...based on this discussion today, and my natural inclination against big, centralized, growthy government, that these points need to be made,” Thayer told the committee.

The DLG’s involvement with city finances involves receiving audits and uniform financial information reports, but the agency has no statutory obligation to review city audits, said the DLG’s Glenn Oldham. The agency acts only as a repository for the information which is passed on to “end users” like the Kentucky General Assembly, the Census Bureau, and the Kentucky League of Cities, he said.

DLG officials stressed that the state’s guidance is clearly much stronger with counties. According to DLG official Robert Brown, the DLG has the power to approve or disapprove all county budgets, with the exception of Lexington and Louisville Metro government. The DLG must also approve any county debt issue of \$500,000 or more, and requires quarterly financial reports from all counties.

“The state role is much stronger with the counties than it has been with the cities,” DLG’s Russell Salsman told the committee.

That said, it is ultimately up to state lawmakers, said Riggs, to determine if more oversight is in the plans for Kentucky local governments.

“It’s really incumbent upon our committee to determine if the statutes in place are sufficient—whether you members, as lawmakers, think we ought to have some sort of early warning system in place, or leave it as it is.”

Riggs mentioned Detroit and the fact that city has filed for bankruptcy as a possible cautionary tale.

“If a bankruptcy happens... that means it’s too late, basically.”

DLG officials stressed that the state’s guidance is clearly much stronger with counties.

# 2014 REGULAR SESSION CALENDAR

2014 REGULAR SESSION CALENDAR  
(approved by LRC 9/4/13)

JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10 *H.R. 40 Posting required for vetoes House Bills	11
12	13	14 (1)	15 (2)	16 (3)	17 (4)	18
19	20 Martin Luther King, Jr. Day HOLIDAY	21 (5)	22 (6)	23 (7)	24 (8)	25
26	27	28 (9)	29 (10)	30 (11)	31 (12)	

\*House Rule 40 states in part: "In the case of printed House bills receiving the affirmative vote of a majority of the House members of the interim joint committee to which they were assigned, posting by the clerk or the committee shall cover during the first four days of the session, and these bills may be considered by the appropriate committee during the first fifteen legislative days of the session. No posting request shall be required for these printed bills."

FEBRUARY

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

( ) Denotes Legislative Day

2014 REGULAR SESSION CALENDAR  
(approved by LRC 9/4/13)

MARCH

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

APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 VETO	2 VETO	3 VETO	4 VETO	5 VETO
6	7 VETO	8 VETO	9 VETO	10 VETO	11 VETO	12
13	14 (59)	15 SINE DIE (60)	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

( ) Denotes Legislative Day

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# Committee Meetings

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### LEGISLATIVE RESEARCH COMMISSION

Minutes of the 540th Meeting  
October 2, 2013

#### Call to Order and Roll Call

The 540th meeting of the Legislative Research Commission was held on Wednesday, October 2, 2013, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators R.J. Palmer II, Jerry P. Rhoads, Dan “Malano” Seum, Brandon Smith, Katie Stine, Damon Thayer, and Johnny Ray Turner; Representatives Rocky Adkins, John Carney, Larry Clark, Bob M. DeWeese, Sannie Overly, and Tommy Thompson.

Guests: Jay Hartz.

LRC Staff: Robert Jenkins and Christy Glass.

There being a quorum present, Speaker Gregory D. Stumbo called for a motion to approve the minutes of September 4, 2013; accept as indicated items A. through F. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated approve item C. under New Business; accept and refer as indicated items 1. through 14. under Communications. A motion was made by Representative Clark and seconded by Representative Thompson. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

The minutes of the September 4, 2013, meeting were approved.

#### Staff and Committee Reports

Information requests for September 2013.

Committee Activity Reports for September 2013.

Report of the Administrative Regulation Review Subcommittee meeting of September 11, 2013.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting of September 9, 2013.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meeting of September 18, 2013.

Committee review of Executive Reorganization Order 2013-518 by the Interim Joint Committee on Education during its meeting of September 9, 2013.

#### New Business

Referral of prefiled bills to the following committees: **BR 168** (relating

to eminent domain) to **Energy**; **BR 79** (relating to animals), **BR 100** (relating to naloxone), **BR 126** (relating to driving under the influence), **BR 164** (relating to probation and parole officers), and **BR 173** (proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote) to **Judiciary**; **BR 9** (relating to alcohol and drug counseling) to **Licensing and Occupations**; **BR 121** (relating to consolidated local governmental funds) to **Local Government**; **BR 127** (relating to elections), **BR 132** (relating to anti-bullying), and **BR 158** (relating to the legislative branch of state government) to **State Government**; and **BR 123** (relating to injury prevention and making an appropriation therefore) to **Transportation**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6) and 158.6471(6): **103 KAR 2:005** (Life expectancy table); **103 KAR 16:230** (Intangible expenses, intangible interest expenses, and management fees); **103 KAR 41:120** (Retention of records); **103 KAR 41:200** (Manufacturers report); **907 KAR 3:225 & E** (Specialty intermediate care (IC) clinic service and coverage policies and requirements); **907 KAR 3:230 & E** (Reimbursement policies and requirements for specialty intermediate care (IC) clinic services), and **907 KAR 10:018** (Repeal of 907 KAR 10:017, 907 KAR 10:372, and 907 KAR 10:376) to **Appropriations and Revenue**; **12 KAR 1:116** (Sampling, analyzing, testing, and tolerances); **12 KAR 1:135** (Tags available for purchase from the director); **12 KAR 1:140** (Permits, reports, and fees for persons using own tags); **12 KAR 1:145** (Registration of agricultural seed dealers, noncertified custom seed conditioners, certified seed growers, and certified seed conditioners); **12 KAR 1:150** (Stop sale orders); **12 KAR 1:155** (Schedule of charges for samples submitted for testing); and **12 KAR 1:165** (Germination standards for vegetable seed) to **Agriculture**; **30 KAR 5:010 & E** (Definitions for 30 KAR Chapter 5); **30 KAR 5:020 & E** (General provisions); **30 KAR 5:030 & E** (Acceptance and refusal of records); **30 KAR 5:040 & E** (UCC Information Management System); **30 KAR 5:050 & E** (Filing and data entry procedures); and **30 KAR 5:060 & E** (Search requests and reports) to **Banking and Insurance**; **702 KAR 7:065** (Designation of agent to manage middle and high school interscholastic athletics) and **704 KAR 3:303** (Required core academic standards) to **Education**; **807 KAR 5:009** (Repeal of 807 KAR 5:003); **807 KAR 5:011** (Tariffs); **807 KAR**

**5:067** (Purchased water adjustment for investor-owned utilities); **807 KAR 5:068** (Purchased water adjustment for water districts and water associations), and **807 KAR 5:075** (Treated sewage adjustment for water districts and water associations) to **Energy**; **201 KAR 9:016** (Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances); **201 KAR 17:012** (Requirements for licensure); **201 KAR 17:030** (License fees and renewal requirements); **201 KAR 17:034** (Requirements for licensure as a speech-language pathology assistant); **201 KAR 17:036** (Requirements for licensure for an audiologist); **902 KAR 18:011** (Definitions for 902 KAR Chapter 18); **902 KAR 18:021** (Eligibility, certification periods, and time frames for processing applicants); **902 KAR 18:031** (Participant abuse); **902 KAR 18:040** (Fair hearing procedures for participants); **902 KAR 18:050** (Vendor authorization criteria); **902 KAR 18:061** (Vendor violations and sanctions); **902 KAR 18:071** (Participant access determination and civil money penalty); **902 KAR 18:081** (Local agency and vendor hearing process and administrative appeal process); **902 KAR 18:090** (High risk criteria); **902 KAR 30:001** (Definitions for 902 KAR Chapter 30); **902 KAR 30:110** (Point of entry and service coordination); **902 KAR 30:120** (Evaluation and eligibility); **902 KAR 30:130** (Assessment, service planning, and assistive technology); **902 KAR 30:150** (Personnel qualifications); **902 KAR 30:160** (Covered services); **902 KAR 30:180** (Procedural safeguards); **902 KAR 30:200** (Coverage and payment for services); **921 KAR 2:040** (Procedures for determining initial and continuing eligibility); **921 KAR 2:046** (Adverse action; conditions); **921 KAR 2:050** (Time and manner of payments); and **922 KAR 1:450** (Eligibility confirmation for tuition waiver) to **Health and Welfare**; **501 KAR 6:999 & E** (Corrections secured policies and procedures); **503 KAR 1:161** (Repeal of 503 KAR 1:160); and **503 KAR 3:091** (Repeal of 503 KAR 3:090 and 503 KAR 3:100) to **Judiciary**; **787 KAR 1:090** (Unemployed worker's reporting requirements) to **Labor and Industry**; **201 KAR 11:220** (Errors and omissions insurance requirements); **201 KAR 45:001** (Definitions); **201 KAR 45:070** (Application procedures for current practitioners); **201 KAR 45:100** (Fees); **201 KAR 45:110** (Supervision and work experience); **201 KAR 45:120** (Renewal, reinstatement, and inactive status); **201 KAR 45:130** (Continuing education); **201 KAR 45:140** (Code of ethics); **201 KAR 45:150** (Complaint procedures); **201 KAR 45:160** (Scope of practice); **804 KAR 4:400 & E** (ABC basic application



form incorporated by reference); and **804 KAR 4:410 & E** (Special applications and registration forms incorporated by reference) to **Licensing and Occupations; 815 KAR 4:030 & E** (Elevator contractor licensing requirements) and **815 KAR 4:040 & E** (Elevator mechanic licensing requirements) to **Local Government; 301 KAR 1:150** (Waters open to commercial fishing); **301 KAR 1:201** (Recreational fishing limits); **301 KAR 2:132** (Elk depredation permits, landowner cooperator permits, and quota hunts); **301 KAR 2:300** (Black bear seasons and requirements); **418 KAR 1:010** (Definitions for 418 KAR Chapter 1); **418 KAR 1:040** (Grant applications); and **418 KAR 1:050** (Procedures for acquisitions of land) to **Natural Resources and Environment**; and, **601 KAR 13:025** (Point system) to **Transportation**.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting approval to hold an additional meeting outside the interim on December 9; and requesting approval for its subcommittees to meet on the same day. There are no apparent conflicts.

**Communications**

From the Office of the Attorney General: Constitutional Challenge Report for the month of July 2013.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the month of August 2013.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for the month of August 2013; and activity for the period of July 1 through August 31, 2013.

From the Cabinet for Health and Family Services, Department for Community Based Services: 2013 Statewide Strategic Planning Committee for Children in Placement, Statewide Strategic Plan and Annual Report.

From the Auditor of Public Accounts: FY 13 Report of the Audit of the Kentucky Department of Veterans Affairs Veteran’s Program Trust Fund.

From the Auditor of Public Accounts: FY 13 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program.

From the Auditor of Public Accounts: FY 13 Report of the Audit of the Kentucky Heritage Land Conservation Fund.

From the Auditor of Public Accounts: FY 13 Report of the Audit of the Cabinet for Health and Family Services Breast Cancer Research and Education Trust Fund Grant Program.

From the Kentucky Personnel Board: FY 13 Annual Report.

From the Teachers’ Retirement System of Kentucky: In-state Investment Report for FY 13 and Interim Financial Statements for the Quarter ended June 30, 2013.

From the Teachers’ Retirement

System of Kentucky: FY 13 Annual Report.

From the Kentucky Board of Medical Licensure: 2013 Annual Report.

From the Finance and Administration Cabinet, Department of Revenue: FY 13 Disaster Relief Sales and Use Tax Refund Totals.

From the University of Kentucky: FY 13 Capital Construction Report.

Senator Stivers called for a motion that the LRC name Marcia Seiler as acting director in charge, and be given all authority of the director, as derived from the pertinent statutes for the director of the Legislative Research Commission. A motion was made by Senator Stivers and seconded by Senator Stine. A roll call vote was taken, and the motion passed unanimously.

Senator Stivers addressed to the Committee regarding the direction the Committee should take in seeking to find a new director of the LRC. He asked that Jay Hartz communicate to the Committee what ideas and suggestions he had obtained from the National Conference of State Legislatures (NCSL) regarding the search for a new director.

Mr. Hartz said that South Dakota is also looking for a new director and had asked NCSL to assist. NCSL conducted a performance audit of South Dakota’s Legislative Research Council and compared it to ten other legislatures. NCSL made specific recommendations for South Dakota to consider in the process of hiring a new director. NCSL surveyed the South Dakota General Assembly to determine what was liked and not liked about staffing, and asked members for recommendations.

The performance audit was delivered in early September 2013. South Dakota has appointed an interim director, and NCSL is helping develop a new job description for the new director and helping create a screening committee to deal with all of the resumes.

Mr. Hartz contacted the Senate Majority Whip and found that South Dakota was pleased with NCSL’s work.

Senator Stivers asked how the audit was funded. Mr. Hartz will look for that information.

Representative Overly asked how long the process might take. Mr. Hartz said it took about one and a half months for NCSL to complete the audit.

Representative Adkins asked whether NCSL had sent anyone to South Dakota during the study. Mr. Hartz said that it appeared that NCSL had sent three people to the state.

Representative Adkins said that NCSL may be able to act quickly in Kentucky now that it has completed the South Dakota study.

Mr. Hartz agreed and said that, when Senate President Stivers and he went to the CSG meeting in Kansas City, they met with the Director of the Alabama equivalent of LRC. The director said that NCSL uses the Kentucky Legislative

Research Commission--generally the structure of LRC --to provide suggestions to other states on how to think through things. Mr. Hartz felt that NCSL already has an understanding of how LRC is structured.

Representative Clark said he hoped that NCSL would interview LRC leadership staff and nonpartisan staff, in addition to interviewing members. Mr. Hartz said that NCSL had surveyed South Dakota members, but he was uncertain whether staff had been interviewed.

Representative Thompson asked whether NCSL has completed this type of study in ten other states. Mr. Hartz said that NCSL had compared South Dakota’s staffing to ten other states for perspective.

Senator Stivers called for a motion that the representatives from the House Minority and Majority offices, Senate Minority and Majority offices, and leadership staff work with Jay Hartz to open discussion with NCSL a performance audit and to make recommendations about starting the procedure of finding a new director. Following a motion by Senator Stivers and a second by Senator Smith, a roll call vote was taken, and the motion passed unanimously.

Representative DeWeese told the Committee that Representative Hoover had an unexpected illness and was not able to attend the meeting.

**Adjournment**

There being no further business, the meeting was adjourned at 2:10 p.m.

**INTERIM JOINT COMMITTEE ON AGRICULTURE**

**Subcommittee on Horse Farming**  
**Minutes of the 1st Meeting**  
**of the 2013 Interim**  
**October 9, 2013**

**Call to Order and Roll Call**

The 1st meeting of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture was held on Wednesday, October 9, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Sara Beth Gregory, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Susan Westrom, Co-Chair; Senators Carroll Gibson, Paul Hornback, Dennis Parrett, Damon Thayer, and Robin L. Webb; Representatives Richard Heath, Tom McKee, Michael Meredith, David Osborne, Tom Riner, Jonathan Shell, Rita Smart, and Wilson Stone.

Legislative Guests: Representatives Dennis Horlander and James Kay.

Guests: Mr. Marc Guilfoil, Ms. Jamie Eads, Dr. Mary Scollay, and Mr. Greg Lamb, Kentucky Horse Racing Commission; Mr. Gabe Prewitt, Kentucky Harness Horseman’s Association; and Mr. Norm Luba and Mr. Rich Wilcke, Kentucky Quarter Horse Association.

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

**Kentucky Horse Racing Commission**

Mr. Marc Guilfoil, Deputy Executive Director, Ms. Jamie Eads, Director of Incentives and Development, Mr. Greg Lamb, Supervisor of Pari-mutuel Wagering, and Dr. Mary Scollay, Equine Medical Director, testified about the Kentucky Horse Racing Commission.

Ms. Eads provided the Thoroughbred foal numbers for 2012 and the 2012 Breeders’ Incentive Program fund payouts.

Co-Chair Gregory commented that it was good to know Kentucky still leads the nation in Thoroughbred breeding.

Responding to Senator Gregory about some standardbred regulatory changes, Ms. Eads explained how the rules were amended to register standardbred mares, stallions, and progeny, whereas before the rules applied to registered stallions standing in Kentucky and their progeny. Also, a new residency requirement allows broodmares to meet residency requirements if the horses are stabled in Kentucky for 120 consecutive days within a 12-month period. Foals can now be nominated under the new administrative regulations.

Senator Webb mentioned changing requirements for non-race walking horses as well because most walking horse stallions stand in Tennessee. Ms. Eads said that idea had not been discussed. She indicated that each non-race breed organization decides how it wants to spend its portion of the breeders’ incentive funds.

Responding to Co-Chair Westrom, Ms. Eads explained the nomination process for mares. She noted that the number of mares bred in Kentucky allowed the state to capture over 60 percent of the market. Ms. Eads also explained how breed groups receiving the breeders’ incentive funds allocate their moneys, for example Thoroughbreds through racing, standardbreds through the Sire Stakes, and non-race breeds, through shows and other events.

Responding further to Co-Chair Westrom, Ms. Eads indicated the largest Thoroughbred sales still occur in the state, and Kentucky horses still dominate national and international races. Ms. Eads discussed the marketing of Thoroughbreds nationally and internationally.

Representative Osborne pointed out that, while Kentucky is the best market for yearlings, a buyer who purchases and takes the horse out of state does not pay a sales tax.

Mr. Lamb summarized the pari-mutuel handle and the historical race betting numbers.

Dr. Scollay testified on the KHRC Veterinary Division, with most of her discussion dealing with the agency’s administration of furosemide, which is given to race horses to prevent internal bleeding.

Responding to Co-Chair Westrom, Dr. Scollay explained the penalty process

that is used in the case of someone found to have violated the race horse medication rules. Penalties can range from purse reductions in the case of winners, to fines and notations in offenders' records.

Senator Thayer elaborated on his proposal to redirect some of the funds that have accumulated within the Kentucky Equine Drug Research Council (EDRC) to the Thoroughbred Development Fund to increase purses for Kentucky bred and raced horses. He indicated that \$3 million in equine drug research funds has accumulated and EDRC would be hard pressed to spend the funds on research.

Responding to Senator Webb, Dr. Scollay explained how the agency develops the protocols used in the drug administration program. She said all the protocols are science-based. Laboratories must have the ability to perform the proper analyses of blood samples.

Senator Webb pointed out there is zero-tolerance for drug use in walking horses.

Responding further to Senator Webb, Dr. Scollay described some scientific studies that have been done related to non-race breeds. Senator Webb said that, considering the challenges to animal agriculture, it is important to buffer those challenges with science-based evidence. She said it would be a good idea to keep the EDRC well-funded.

Dr. Scollay explained to Representative Smart the role that the Racing Medication and Testing Consortium plays in the industry.

As that portion the meeting ended, Senator Thayer complimented the commission and its staff.

#### **Kentucky Harness and Horsemen's Association**

Mr. Gabe Prewitt, Executive Secretary, Kentucky Harness and Horsemen's Association described the makeup of the association, the tracks, races, the impact of the standardbred regulatory changes, and the recently completed standardbred sales.

Senator Thayer pointed out there is a need to expand the market. He wondered if harness racing is viable at the smaller tracks and whether it would be better to give those race days to the The Red Mile, which is the largest track, located in Lexington.

Mr. Prewitt said there has been some discussion of that issue. The short seasons at the smaller tracks make it difficult for horsemen because of having to move quickly from one track to another. The money generated by those tracks is important for those smaller cities in which the tracks are located. He discussed some other changes that may occur, such as Keeneland's proposal to buy Thunder Ridge to obtain and relocate the track's instant racing license.

Representative Osborne said he supported the mare residency changes, but added that the standardbred fund generally is bolstered by the stud fees.

He asked about the potential of stallions being brought back to the state. Mr. Prewitt said that would be encouraging. He indicated that breeding has increased in the bordering states Ohio and Indiana, thus movement would be easier from those states.

#### **Kentucky's Quarter Horse Industry**

Mr. Norm Luba and Rich Wilcke, both past presidents of the Kentucky Quarter Horse Association, testified about the quarter horse industry.

Mr. Luba discussed the quarter horse numbers as revealed in a recent UK equine survey, described the many uses of quarter horses, and noted the proliferation of quarter horse farms.

Following Mr. Luba's report, Mr. Wilcke testified about quarter horse sprint racing – which, historically, was the first type of horse racing that took place in Kentucky – and pleasure and show activities. He believes sprint racing can again become popular in Kentucky.

Senator Thayer mentioned that he is a quarter horse fan and hopes the Keeneland sprint track project at Corbin proves successful. He noted some legislative changes may need to be made should the sport expand.

Mr. Wilcke responded that he felt spring racing.

Responding to Representative Riner, Mr. Wilcke and Mr. Luba clarified that there are about 42,000 quarter horses in Kentucky, and almost 37,000 of those are registered.

Representative Smart expanded on some of the history of sprint racing.

Documents distributed during the subcommittee meeting are available with meeting materials in the LRC Library. The meeting adjourned at noon.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

### **Minutes of the 4th Meeting of the 2013 Interim**

September 26, 2013

#### **Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 26, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Tom Buford, David P. Givens, Sara Beth Gregory, Denise Harper Angel, Ernie Harris, Stan Humphries, Ray S. Jones II, Alice Forgy Kerr, Christian McDaniel, and Gerald A. Neal; Representatives John Carney, Leslie Combs, Jesse Crenshaw, Ron Crimm, Robert R. Damron, Mike Denham, Bob M. DeWeese, Myron Dossett, Kelly Flood, Richard Henderson, Jimmie Lee, Reginald Meeks, Marie Rader, Jody Richards, Steven Rudy,

Arnold Simpson, Rita Smart, David Watkins, Jim Wayne, Susan Westrom, and Addia Wuchner.

Guests: Ms. Carrie Banahan, Executive Director, Office of the Kentucky Health Benefit Exchange, Ms. D. J. Wasson, Legislative Liaison, Department of Insurance; Mr. Joe Cowles, Commissioner, Department of Employee Insurance; and Ms. Sharron Burton, Deputy Executive Director, Office of Legal Services, Personnel Cabinet.

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

Representative Henderson moved to approve the minutes from the previous meeting as written. Representative Richards seconded the motion. The motion carried by voice vote.

#### **Health Benefit Exchange**

Ms. Carrie Banahan, Executive Director of the Office of the Kentucky Health Benefit Exchange, testified about the Kentucky Health Benefit Exchange (Exchange). There are 640,000 uninsured people in the state. Of these, 300,000 may qualify for Medicaid under the new eligibility rules, 290,000 may qualify for premium assistance through the Exchange, and 50,000 may purchase insurance on the Exchange without subsidy. She provided information regarding the percentage of uninsured in each county.

Ms. Banahan described the purpose of the Exchange. It is an organized marketplace for individuals and employees of small businesses to shop for health insurance offered by insurers, and to compare those plans based on price and quality. Individuals may also apply for Medicaid and the Kentucky Children's Health Insurance Program (KCHIP) coverage. The Affordable Care Act requires states to create their own exchanges or default to a federal exchange, and Kentucky opted to create its own. She also outlined the insurers who are participating in the Exchange.

Ms. Banahan discussed the Small Business Health Options Program (SHOP) within the Exchange. States must have a SHOP program to provide health insurance options to small businesses of 2 to 50 employees in Kentucky. SHOP will ease the administrative burden on the small employers that now administer group health plans. Kentucky has merged the SHOP exchange with the individual market for administrative and financial simplification.

Ms. Banahan discussed federal premium assistance tax credit requirements. She stated that individuals may qualify for premium assistance if their household income for the taxable year is between 138 percent and up to 400 percent of the federal poverty level. Individuals may also qualify for cost sharing reductions if their income is below 250 percent of the federal poverty level. A small business may qualify for a tax credit if it pays at least 50 percent of the premium for each employee, has fewer than 25 full-

time equivalent employees for the tax year, and the average annual wage of the group is less than \$50,000.

Ms. Banahan gave several examples of estimated costs to purchase health insurance on the Exchange, for various types of individuals and businesses at different coverage levels.

Ms. Banahan discussed the internet website for the Exchange, the various pages on the website and their ease of use, and the differences between the individual and SHOP areas of the website. She showed how to browse insurance plans and use criteria filters to compare insurance plans.

Ms. Banahan discussed the Exchange's education and outreach program that was implemented in recent months. Exchange representatives have visited county fairs, health fairs, community events, and the State Fair distributing information to the public. After the beginning of open enrollment on October 1, the governor and Exchange representatives will be touring the state informing the public of the Exchange. Open enrollment begins October 1 and runs through March 31, 2014, with coverage beginning as soon as January 1, 2014.

Ms. Banahan discussed the Exchange's estimated operating budget through FY 2019. Costs include staffing, technology costs, vendor support staff, and operational costs including hardware and software, rent and facility costs. Federal funds may be used for Exchange operation through 2014, but it must be self-sustaining by 2015.

In response to a question from Representative Lee, Ms. Banahan said if coverage is offered to an employee and the premium is less than 9.5 percent of their household income, then that employee cannot purchase coverage on the Exchange. If the employer also offers coverage for the employees' dependents, then they are not eligible for premium assistance on the Exchange if the offered premium is less than 9.5 percent of their household income. If no coverage is offered to dependents, then they may use the Exchange and also qualify for premium assistance. Ms. Banahan also stated that the Exchange has an incoming phone call capacity of about 5,000 calls per day.

In response to a question from Senator McDaniel, Ms. Banahan said that there is a fee assessment of up to 1 percent on insurers to fund part of the Kentucky Access high-risk insurance program. Kentucky Access will be terminating at the end of 2013. Transferring this fee assessment to the Exchange is one funding possibility for the Exchange.

In response to a question from Representative Westrom, Ms. Banahan said that no federal funds will be used to support the Exchange by 2015, when the Exchange is expected to be self-sustaining.

In response to a question from Senator Gregory, Ms. Banahan said that



for individuals under 30, the Exchange will offer some “catastrophic” plan options. These will have higher deductibles and lower premiums, but will cover all 10 essential health benefits.

In response to a question from Senator Humphries, Ms. Banahan stated that all policies, both in the Exchange and outside, are required to offer the 10 essential health benefits. For behavioral health, policies are required to cover inpatient hospitalization, outpatient therapy, substance abuse services, and residential treatment.

In response to a question from Representative DeWeese, Ms. Banahan said that the Exchange has received spending authority for \$252 million in federal funding for development, implementation, and operation expenses.

In response to a question from Representative Meeks, Ms. Banahan stated that individuals without internet access can call the contact center and file an application over the phone. There will also be individual “connectors” in communities to help facilitate the application process, in places like local libraries.

In response to questions from Senator Leeper, Ms. Banahan said that all claims through Kentucky Access are expected to be paid by September 2014. She said that to fund program operations and pay claims, insurers can be assessed up to a 1 percent premium tax. Ms. Wasson stated that with a .5 percent assessment the Department of Insurance collected \$13 million last year. A 1 percent assessment should result in about \$26 million.

#### **State Employees’ Health Plan for Plan Year 2014**

Mr. Joe Cowles, Commissioner of the Department of Employee Insurance, and Ms. Sharron Burton, Deputy Executive Director of the Office of Legal Services, Personnel Cabinet, updated the committee regarding the state employees’ health plan for 2014. Mr. Cowles stated there are very few changes due to grandfather status for plan design elements and employee contributions. The employer contribution was increased 2 percent, and the annual trends are projected to be in the 8 to 9 percent range.

Mr. Cowles stated that many of the mandates under healthcare reform begin to take effect in 2014. These changes are reflected in the 2014 designs with benefit enhancements like preventive services such as immunizations, screenings, well child and well adult visits all with no member cost. The 2014 plans expand wellness offerings and there are premium incentives for non-use of all tobacco products. He discussed Kentucky’s overall health status, stating that Kentucky ranks 45<sup>th</sup> among all states. Kentucky has a lower than average life expectancy and higher percentages of adults who are overweight and use tobacco products.

Mr. Cowles and Ms. Burton briefly discussed the health initiatives included in the two 2014 LivingWell plans.

These plans require health awareness, monitoring of health status, setting goals for improving health, and encouraging preventative health care. The preventive care benefits are at no cost to members. Ms. Burton stated that all information collected during the health assessment is strictly confidential.

Mr. Cowles discussed enrollment in the 2014 plans. Open enrollment is mandatory for all employees and lasts from October 1-31, 2013. Benefit fairs will be held throughout the state from October 1 through October 18. The fairs will offer free flu shots and health screenings. He provided an overview of the four plan options, discussing coverage and cost.

In response to a question from Representative Denham, Mr. Cowles said that the Affordable Care Act increased costs for the state employees’ health plan.

There being no further business, the meeting adjourned at 3:40 p.m.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

### **Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 1st Meeting of the 2013 Interim September 26, 2013**

#### **Call to Order and Roll Call**

The first meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 26, 2013, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Senators Walter Blevins Jr. and David P. Givens; Representatives Dwight D. Butler, Mike Denham, Adam Koenig, Tom McKee, Brad Montell, Tanya Pullin, Tom Riner, and Wilson Stone.

Guests: Senator Katie Stine; Bill Thielen, Executive Director, Kentucky Retirement Systems; Gary Harbin, Executive Secretary, Kentucky Teachers’ Retirement System; Beau Barnes, Deputy Executive Secretary, Kentucky Teachers’ Retirement System; Mark Whalen, Chief Financial Officer, Kentucky Teachers’ Retirement System; Audrey Tayse Haynes, Secretary, Cabinet for Health and Family Services; and Dr. Allen Brenzel, Clinical Director, Cabinet for Health and Family Services.

LRC Staff: Frank Willey, Tom Willis, Linda Ellis, Katherine Halloran, Kem Delaney-Ellis, Jennifer Rowe, Alex Fontana, and Ben Thompson.

#### **Kentucky Retirement Systems Status**

Mr. Thielen discussed the Kentucky Retirement Systems.

In response to questions posed by

Representative Montell about funding and benefit plans, Mr. Thielen stated the actuaries project KERS Non-Hazardous, as currently funded, would probably bottom out in three to four years. A study would need to be done for more accurate projections. Mr. Thielen clarified that the Cash Balance Plan would not replace the Defined Benefit Plan, but would provide another benefit tier.

In response to a question from Representative Koenig concerning investment performance, Mr. Thielen stated that he would need to confer with the Chief Investment Officer in order to tell precisely how benchmarks are determined. A benchmark is established by a committee based upon recommendations of various investment consultants.

In response to questions from Representative Pullin concerning investments, Mr. Thielen said KRS connects with four different investment consulting firms, and the ultimate decision lies with the KRS Investment Committee. KRS is a valuable client for these houses because of the large membership number and negotiations for investment managers’ rates are significant. Mr. Thielen also clarified that investment consulting firms have expertise in a wide variety of investment types and receive a flat annual fee.

In response to a question from Senator Givens about investment gain/loss, Mr. Thielen said actual incurred losses and gains are smoothed out over a five year period.

In response to a question from Senator Blevins about the percentage of investments in Kentucky, Mr. Thielen said he would need to confer with his staff to provide exact numbers on how much is invested in Kentucky, but KRS always looks to invest in-state.

Chair McDaniel made note that as a result of Senate Bill 2, the General Assembly will contribute \$122 million more in the coming fiscal year than last fiscal year.

#### **Kentucky Teachers’ Retirement System Status**

Mr. Harbin discussed the Kentucky Teachers’ Retirement System.

In response to questions from Representative Denham about the inviolable contract for medical benefits and Social Security (SS) benefits, Mr. Harbin confirmed that teachers were not included in the inviolable contract for medical benefits when the law was passed. Mr. Harbin informed the members that SS originally excluded teachers, but during a revision to the SS benefits states were allowed to opt-in for teachers. Kentucky chose not to. Kentucky is still able to opt-in with an act of Congress. Though Kentucky teachers can receive SS benefits from another job, those benefits would be greatly reduced.

In response to a question from Representative Montell concerning healthcare liability, Mr. Harbin answered that the legislature covered the

unfunded liabilities that fell under their responsibility, but not all of the unfunded liabilities.

In response to a question from Representative McKee, Mr. Harbin stated that the \$400 million budgetary payment was a continuing annual payment over the next 30 years, rather than two \$200 million dollar payments over the next two fiscal years.

In response to a question from Representative Stone, Mr. Harbin stated that KTRS foresees no immediate impact on healthcare benefits to teachers or retired teachers from the Affordable Care Act.

In response to a question from Chair McDaniel, Mr. Harbin clarified that the dependent subsidy previously provided to retired teachers’ health plan by KTRS is available in the Kentucky Employee Health Plan.

#### **Substance Abuse and Available Treatment Beds**

Secretary Haynes and Dr. Brenzel discussed substance abuse in Kentucky, as well as treatments available in-state.

In response to questions from Representative Koenig concerning heroin abuse in Northern Kentucky and the availability of treatment, Secretary Haynes stated that the Affordable Care Act would benefit substance abuse treatment. As more people become insured for substance abuse treatment, more healthcare providers will increase the quality of their treatments. Dr. Brenzel noted that the CHFS had the ability to reallocate resources to the places that needed them most.

In response to a question from Representative Denham concerning the increase in heroin abuse, Secretary Haynes said treatment programs would take time to ramp up as the Affordable Care Act was implemented. She also noted that when people are hospitalized, hospitals can enroll them in Medicaid if they are eligible.

In response to a question from Senator Stine concerning costs, Secretary Haynes said cost analysis would have to be done for Community Mental Health Centers, where there is a medical component, but the cost would be necessarily greater than Recovery Kentucky, which is a therapeutic model. Dr. Brenzel added that for heroin addiction, there needs to be a medical component to get through withdrawals.

In response to a question from Representative Riner concerning faith-based programs, Secretary Haynes stated funds had historically gone to Community Mental Health Centers, but the network will be opening up because of an increase in need.

There being no further business before the subcommittee, Chair McDaniel requested a motion to adjourn. A motion was made by Representative Stone and seconded by Representative Pullin, and the meeting was adjourned at 12:24 PM.



## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education  
Minutes of the 3rd Meeting  
of the 2013 Interim  
September 26, 2013

### Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 26, 2013, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Arnold Simpson, Co-Chair; Senator Johnny Ray Turner; Representatives Derrick Graham, Jody Richards, Kevin Sinnette, and Rita Smart.

Guests: Robert L. King, President, Council on Postsecondary Education (CPE); Dr. Aaron Thompson, Senior Vice President for Academic Affairs, CPE; Reecie Stagnolia, Vice President for Adult Education, CPE; Dr. Kate Shirley Akers, Deputy Executive Director, Kentucky Center for Education and Workforce Statistics (KCEWS).

LRC Staff: Perry Papka and Amie Elam.

### Governor's Conference on Postsecondary Education Trusteeship

Robert L. King, President, Council on Postsecondary Education (CPE), provided a recap of the Governor's Conference on Postsecondary Education Trusteeship. His presentation outlined highlights from the conference including discussions regarding public-private partnerships and a focus on economic growth.

In response to a question by Representative Smart, President King said that the Hispanic population is the fastest growing minority group in the country. He added that Kentucky campuses are seeing growth in enrollment of Hispanic students and an increase in services provided to these students. Kentucky is behind in its response to the growth of Hispanic students. A grant has been obtained from the Lumina Foundation that will help make the necessary changes to be able to better respond to this growing population.

In response to a question by Chairman Humphries, President King said that it is important to expand public-private relationships and seek more internships and hands-on experience for students. Dr. Thompson said that there has been an effort for CPE to reach out to employers to anticipate employer needs and expectations.

### Adult Learner Degree Attainment

Reecie Stagnolia, Vice President for Adult Education, CPE, gave a progress update on the Adult Learner Degree

Attainment Initiative. Mr. Stagnolia's presentation included data from 2000-present outlining the improvements and achievements in Kentucky's Adult Education System.

In response to a question by Representative Flood, Mr. Stagnolia said that there is a base funding model and a performance incentive system. The performance incentive model awards additional funds based on outcomes such as enrollment, academic achievement, and General Education Development (GED) graduates.

In response to a question by Representative Simpson, Mr. Stagnolia said that students who have obtained their GED are primarily tracked to see if they have transitioned to a postsecondary institution.

In response to a question by Representative Graham, Mr. Stagnolia said the GED exam will add an essay portion as of January 2014. Mr. Stagnolia added that there has been an increase in instructor training to prepare students for the changes to the new test standards.

In response to a question by Representative Carney, Mr. Thompson said that one year certificate programs save money and create motivation for students.

In response to a question by Representative Smart, Mr. Stagnolia said that there is no charge for the GED instruction, but there is a fee for the test.

In response to a question by Representative Graham, Mr. Stagnolia agreed to provide the committee with data from the last ten years regarding students who have dropped out of high school and returned to get a GED.

In response to a question by Representative Graham, President King said that all Kentucky campuses, both public and private, serve non-traditional students. He added that the services vary from campus to campus, but the goal is to make a uniform process.

### Kentucky Center for Education & Workforce Statistics (KCEWS)

Dr. Kate Shirley Akers, Deputy Executive Director, KCEWS, provided an overview of the organization and the data it collects.

In response to a question by Representative Flood, Dr. Akers said that the review of the Workforce Investment Act training programs and the Kentucky Workforce Investment Board are the reports that the business community is most interested in.

In response to a question by Representative Simpson, Dr. Akers said that KCEWS reports employment and earnings to individual institutions. KCEWS is open to any request for data and statistics and will provide a completely impartial review.

In response to a question by Representative Carney, Dr. Akers said that KCEWS will look into providing a report on the cost of living regionally versus statewide and nationally.

There being no further business before the committee, the meeting was adjourned at 12:05 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education  
Minutes of the 2nd Meeting  
of the 2013 Interim  
September 26, 2013

### Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 26, 2013, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Kelly Flood, Co-Chair; Senator Johnny Ray Turner; Representatives John Carney, Jeffery Donohue, Derrick Graham, and Rick G. Nelson.

Guests: Robert L. King, President, Council on Postsecondary Education (CPE); Dr. Aaron Thompson, Senior Vice President for Academic Affairs, CPE; Reecie Stagnolia, Vice President for Adult Education, CPE; Dr. Kate Shirley Akers, Deputy Executive Director, Kentucky Center for Education and Workforce Statistics (KCEWS).

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

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In response to a question by Representative Carney, Dr. Akers said that



KCEWS will look into providing a report on the cost of living regionally versus statewide and nationally.

There being no further business before the committee, the meeting was adjourned at 12:05 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Transportation

#### Minutes of the 3rd Meeting of the 2013 Interim

September 26, 2013

##### Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 26, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Leslie Combs, Co-Chair; Senator R.J. Palmer II; Representatives Hubert Collins, Tim Couch, Robert R. Damron, Jim Gooch Jr., Keith Hall, John Short, and Jim Stewart III.

Guests: Representatives Kim King and Susan Westrom. Dave Adkisson, President and CEO, Kentucky Chamber of Commerce. Transportation Cabinet: Mike Hancock, Cabinet Secretary; Tammy Branham, Executive Director, Office of Budget and Fiscal Management; and Nancy Albright, Director, Division of Maintenance, Department of Highways.

LRC Staff: Chuck Truesdell, Jennifer Anglin, and Spring Emerson.

Chair Combs called for a motion to approve the minutes of the last meeting, which was held on July 25, 2013. A motion was made by Representative Collins and seconded by Representative Hall, and the minutes were approved without objection.

##### Discussion of a Report by the Kentucky Chamber of Commerce

Dave Adkisson, President and CEO, Kentucky Chamber of Commerce, provided an overview of the report *Private Solutions to Public Problems: Partnerships to Build a Better Government*, which outlines some of the ways Public-Private Partnerships (P3s) can be used as possible funding solutions for various projects throughout the Commonwealth.

In response to questions from Representative Collins, Mr. Adkisson said in order to prevent a partner from not keeping up with maintaining the roads, an attorney should be utilized to build safety points into the written contract. He said state government is so strapped for money that it cannot promote the assets it has in order to bring in more revenue.

In response to questions from Representative Damron, Mr. Adkisson said legislation would be necessary in order to allow for unsolicited proposals

which would mean the creativity of the private sector would be brought to bear. This could be a long-term advantage for Kentucky. Chair Combs stated that the use of P3s could be broadened to include other areas.

In response to a question from Senator Higdon, Mr. Adkisson said the efficiency of the process is part of the reason for the savings realized at the dormitory building at Eastern Kentucky University. A comprehensive system with an ongoing dialogue to find the best way to serve the public would be ideal.

Representative Damron stated that the best example of this type of partnership would be at the University of Kentucky with the construction of their dorm rooms, which was achieved at a higher quality, faster speed, and at a lower cost than the university would have been able to do on their own. UK has a strong business model, and it has proved to be a successful example of P3 use. If P3s are utilized in Kentucky, the legislation should be all-encompassing to allow innovation, not only in roads and transportation issues, but in the Parks system and other places as needed. The office should be located in the Governor's office and should be expanded down to allow municipalities and counties to have the same types of arrangements and services at the local level.

Representative Hall said he is always open to bigger and better ways to serve the public, and the use of P3s could be a good way to do that. The City of Pikeville utilizes a P3 for several services and it has been successful. Mr. Adkisson suggested that the power of the private community be unleashed in order to achieve the desired result.

##### Maintenance Budget Update

Secretary Mike Hancock, Tammy Branham, and Nancy Albright provided an update on the Transportation Cabinet Maintenance Budget.

In response to a question from Representative Couch, Ms. Albright said a database is maintained which includes a ranking system for prioritizing guard rail needs. A priority list of the 295 miles of guardrail needing maintenance or replacement will be provided to the members at a later date.

In response to questions from Representative Collins, Ms. Albright said contractors are required to retrofit their trucks, which includes installing hydraulics, electronics, v-box spreaders, distributors, certain salt-spreading calibration equipment, radios, and plows. The cabinet pursues reimbursements from vehicle liability insurance when guardrails are damaged in accidents, but a lot of the time no accident report is available. Representative Collins stated that guardrails save lives. Representative Couch agreed, adding that the prevention of highway deaths should be a priority.

In response to a question from Representative Stewart, Ms. Albright said wood posts are used for guardrails at times even though steel lasts longer. She

said the aesthetic quality was important in certain instances, and when the decision is made to use wood posts, the maintenance requirements are factored into the cost.

In response to a question from Representative Couch, Ms. Branham said the maintenance program has carry forward authority for encumbrances and any balance left over, due to the program being seasonally driven.

In response to questions from Representative Stewart, Ms. Albright said highway medians are fertilized and seeded at times in order to control erosion and keep noxious weeds out. She will provide the amount of that expense at a later date. Ms. Albright said the Department of Highway Maintenance does not have any long-line striping machines, and the work is contracted out at a cost of \$14 million to \$15 million per year statewide.

In response to questions from Senator Higdon, Ms. Albright said the cabinet has been asked occasionally about leasing the right-of-ways for growing and mowing hay, but due to the terrain and soil quality, it is not always possible.

In response to a question from Representative Collins, Ms. Branham said Kentucky shares the cost of the Cumberland Gap Tunnel with Tennessee at a 50 percent split, and the current biennial contract is just under \$5 million per year.

Representative Collins remarked that coal patches in potholes do not last very long. He said maintenance of ditches and culverts contributes to the life of the road, and increasing the maintenance budget is necessary for highway safety.

There being no further business before the subcommittee, the meeting was adjourned at 11:32 AM.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

### Minutes of the 3rd Meeting of the 2013 Interim

September 30, 2013

##### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Monday, September 30, 2013, at 11:00 AM, at Breaks Interstate Park, Breaks, Virginia. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Keith Hall, Co-Chair; Senators Perry B. Clark, Ernie Harris, Jimmy Higdon, and Dennis Parrett; Representatives Larry Clark, Leslie Combs, Tim Couch, Jeffery Donohue, Jim Gooch Jr., Mike Harmon, Dennis Keene, Adam Koenig, Tom McKee, Terry Mills, Ruth Ann Palumbo, John Short, Arnold Simpson, Wilson Stone, and Russell Webber.

Guests: Austin Bradley, Interim

Superintendent, Breaks Interstate Park; Bob Stewart, Secretary, Tourism, Arts and Heritage Cabinet; Michael Mangeot, Commissioner, Department of Travel and Tourism; and Elaine Wilson, Director, Office of Adventure Tourism.

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

##### Breaks Interstate Park

Austin Bradley, Interim Superintendent of Breaks Interstate Park, which is one of only two parks in the nation created by interstate compact, outlined the history of the 4,800 acre park and provided a general overview of how Virginia and Kentucky jointly fund the park.

Responding to Representative Hall's question, Mr. Bradley explained the makeup of the park's commission and park funding. Of the park's \$2 million budget, 7 percent is provided by Kentucky and 8 percent from Virginia. Forty percent of the park is in Kentucky and 60 percent is in Virginia. The commission has four Kentucky appointees and four Virginia appointees.

##### Adventure Tourism

Bob Stewart, Secretary of the Tourism, Arts and Heritage Cabinet, discussed his role as the newly appointed secretary of the cabinet. He noted the success of the Governor's School for the Arts, the Berea Kentucky Artisans Center, and the Kentucky crafts movement. The tourism industry in Kentucky is now a \$12.2 billion industry. In 2003, when Secretary Stewart left the Tourism Cabinet, social marketing did not exist. Social marketing has revolutionized the world of marketing. Secretary Stewart noted the success of the bourbon industry and the Kentucky Bourbon Trail, which receives over 500,000 visitors per year. The "Bourbon Country" initiative, featuring destinations with bourbon connections, continues to expand. Traditionally, the demographics of people who visit Kentucky show that visitors are predominantly Midwestern families with children looking for wholesome outdoor activities, while bourbon destinations and adventure tourism attract young, upwardly mobile, professional visitors from all over the world.

Secretary Stewart said the cabinet is focusing more on the film office and its incentive program, and the Tourism Development Act (TDA), which has been very successful by attracting nearly \$1 billion of new investment in Kentucky. While Kentucky was the first state to offer a program like the TDA, other states have now copied it. To bring Kentucky to the forefront, the cabinet intends to do a better job getting the message out to developers that Kentucky is the place to invest, especially now that the economy has improved.

To make maximum use of budgetary funds, Secretary Stewart said the cabinet will do more cross-promoting among agencies through advertising. For example, the Fair Board is working with

the Frankfort Convention Center on problem solving and lead sharing. He said the arts and preservation communities should collaborate more with the tourism community to mix constituencies in creative and collaborative ways. Secretary Stewart said the exploration of public/private partnerships has much potential.

Responding to Representative McKee's question regarding construction of a lodge at Kincaid State Park, Secretary Stewart said previous attempts at finding private sector investment in state parks have not been successful. He said the TDA has a provision allowing the recovery of up to 50 percent initial investment over 20 years through sale tax rebates with an investment on state-owned land versus 25 percent for private land development. The cabinet and the Kentucky Chamber of Commerce are still looking into park development and are open to ideas. He said the cabinet needs to get more aggressive in promoting the TDA.

Michael Mangeot, Commissioner of the Department of Travel and Tourism gave an overview of the department. He explained that the majority of marketing is out-of-state. Kentucky tourism results annually in \$1.227 billion in tax revenue including \$164 million in local taxes. The Department of Travel and Tourism is the only state agency that is a consumer marketing agency. The website is the single most important marketing vehicle in travel and tourism. Marketing and advertising includes television, radio, print, and digital advertising. The department also oversees the Tourism Marketing Incentive Program, which is funded by the 1 percent statewide lodging tax. \$5.5 million is allocated to nine tourism regions for marketing purposes. Each region's allocation is based on population, number of hotel rooms, and tourism activity money spent. Each region can choose to participate in the Cooperative Marketing Program that allows a region to participate in state-funded advertisement at a reduced cost while the department covers a majority of the advertising costs. He noted that other targeted tourism audiences include adults over 55, special interests, and group travel.

Commissioner Mangeot said that based on visitor profiles a majority of state advertising has shifted from the Midwest to the South and toward higher income families. Marketing has increased for adventure tourism and outdoor activities. There are 17 primary markets. Research suggests Kentucky is not viewed as a vacation destination but rather a getaway, which is defined as a trip of less than three days. The department also works with local convention and visitors bureaus and tourism commissions on in-state marketing. Commissioner Mangeot said the internet is the top resource for travel and tourism information. The tourism website is managed daily due to its importance. It averages approximately 2.5 million visits annually. The website also has an industry portal that provides

research information, contact information and incentive information for the local CVB partners.

Referring to the film office, Commissioner Mangeot said Kentucky's niche is independent film production.

Commissioner Mangeot noted that the department's annual report has just been released.

Responding to Senator Parrett's questions, Commissioner Mangeot said it is difficult to quantify the number of out-of-state visitors. He explained that the advertisement requirement for the marketing incentive program is visitors traveling over 50 miles to a destination. A majority of the co-op money goes toward out-of-state advertising.

Representative Clark said he would prefer another bond issue to upgrade all state park facilities. Responding to Representative Clark's question, Secretary Stewart said any public/private partnership with the parks has to be done carefully and strategically to maintain the integrity of the state park system.

Responding to Co-Chair Kerr's comments about the success of the bourbon trail, Secretary Stewart said a Moonshine Trail is being coordinated out of Prestonsburg.

Responding to Representative Stone's question, Commissioner Mangeot said the cabinet has a good relationship with local economic development offices. There is a marketing advisory committee that consists of one representative from each of the nine regions.

Responding to Senator Higdon's question about film incentives, Commissioner Mangeot said one of the biggest issues expressed by smaller film productions is the threshold for investment in Kentucky which is currently \$500,000. A lot of filming in Kentucky does not meet the threshold. Lowering the threshold would have a positive effect. Senator Higdon suggested transferrable tax credits.

Senator Higdon also suggested the development of a state park trail similar to the bourbon trail to give visitors an incentive for visiting all of the parks.

Responding to Representative Mills' question, Secretary Stewart said a previous report recommended charging admission fees to state parks. It was estimated to raise \$1 to \$3 million, but the cost of administering and implementing methods to collect fees was difficult to assess. He said other states such as Arkansas tried charging fees and it was a huge mistake that generated a great deal of negative publicity. Commissioner Stewart speculated that if there was a bond issue and the parks were at their top level, then perhaps an admission fee would be plausible. Currently, some parks are in need of repair and are losing business.

Representative Koenig said perhaps parks that are heavily subsidized be cut from the parks system in order to better use tax monies on more lucrative parks.

Responding to Senator Clark's

question about alcohol sales in parks, Secretary Stewart said three resort parks sell alcohol by the drink (Jenny Wiley, General Butler and Lake Barkley) and two golf courses sell beer. Other state resort parks are moving to either hold a local vote or through annexation to sell alcoholic beverages by the drink.

Senator Clark suggested taking a second look at the prohibition of alcohol on boats.

Elaine Wilson, Director of the Office of Adventure Tourism, provided an overview of adventure tourism in the state. All of the trails in Kentucky have been inventoried and are listed on the agency's website. The office printed a guide featuring outfitter services, trail listings, zip lines, and other adventure tourism businesses. The website has been updated to include the guide, adventure events throughout the state, and a blog featuring articles on first hand experiences. The office also assists with new business development such as zip line companies. Other accomplishments include horse camps at some state parks, horse trail and rail trail development, and more multi-use trails at state parks. There are planned construction projects through an ARC grant to construct trails in Buckhorn Lake and Kingdom Come state parks to connect communities.

Ms. Wilson said the governor asked to see an impact through adventure tourism--increased physical health of Kentuckians and increased economic health of communities. Ms. Wilson reviewed the demographics of adventure tourism. Adventure tourism has an \$8.4 billion impact in Kentucky. The office is putting together a master trail plan to connect communities across Kentucky. There is also trail town development along river ways for people traveling Kentucky's rivers. The office is working with 34 communities statewide that are designated as trail towns. Trail towns are a portal into a trail system, a place to buy products and services, and a trail-friendly town that is willing to provide information and share its culture and history.

Responding to Representative Short's question, Ms. Wilson said his agency is working with Royalton to develop a trail town upon approval of the county judge. This will encourage growth and development of some campsites and businesses in that area.

There being no further business the meeting adjourned at 1:30 PM.

## **SPECIAL SUBCOMMITTEE ON ENERGY**

**Minutes of the 3rd Meeting of the 2013 Interim**  
September 20, 2013

### **Call to Order and Roll Call**

The 3rd meeting of the Special Subcommittee on Energy was held on Friday, September 20, 2013, at 9:00 AM, in the Quad Room, Brown Badgett, Sr. Energy and Advanced Technology Center, Madisonville Community College,

Madisonville, Kentucky. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Richard Henderson, Co-Chair; Senators Ernie Harris, Dorsey Ridley, and Robin L. Webb; Representatives Dwight D. Butler, Tim Couch, Will Coursey, Jim Gooch Jr., Tom Riner, John Short, Fitz Steele, Gerald Watkins, and Brent Yonts.

Guests: Rusty Ashcraft, Manager of Government Affairs and Environment Policy, Alliance Coal; Dave Moss, Vice President and Director of Governmental Affairs, Kentucky Coal Association; David Clardy, Vice President, Matrix; Gary Whisman, Executive Director, Kentucky Coal Academy; Danny Knott, Director of the Mine Rescue Team, Kentucky Coal Academy; and Rick Caskey, Director of the Fire Brigade, Kentucky Coal Academy.

Legislative Guest: Senator Jerry Rhodes.

LRC Staff: D. Todd Littlefield, CSA, Janine Coy-Geeslin, and Susan Spoonamore, Committee Assistant.

### **Future of Western Kentucky Coal**

Dave Moss, Vice President and Director of Governmental Affairs, Kentucky Coal Association, spoke to the issues affecting western Kentucky coal since 2000, specifically citing the Clinton Administration imposing more stringent air quality regulations on utilities. Mr. Moss posited that new technologies such as air scrubbers have allowed western coal companies to keep up with federal regulation. Mr. Moss provided statistics on production of eastern Kentucky coal versus western Kentucky coal. In 2012, 54 percent of Kentucky's total coal production came from western Kentucky, and 46 percent came from eastern Kentucky. In 2013, Union County surpassed Pike County as the leading coal producing county. Mr. Moss maintained that western Kentucky coal is still prosperous. He wondered if the same problems eastern Kentucky coal companies are facing will come to western Kentucky coal companies.

Rusty Ashcraft, Manager of Government Affairs and Environment Policy, Alliance Coal, stated that Alliance is the first and largest publicly-traded master limited partnership involved in the production and marketing of coal. It is the third largest eastern coal producer with 34.8 million tons produced during 2012. As of December 31, 2012, Alliance had 920 million tons of reserves. Alliance has thirteen mining operations along with other projects and has 2,400 employees in Kentucky. Mr. Ashcraft said that the 2012 estimate of the economic impact from Alliance's Kentucky operations totaled \$1,039,000. About 94 cents of every \$1.00 stays in Kentucky. There are 3.6 billion people who have no or only partial access electricity.

Access to electricity improves quality of life, which enables people to live longer



and better. Electricity consumption in the United States has grown 54 percent since 1990, and America's economy is powered by coal. The supply of coal is abundant, and the demand for coal should remain stable. Using coal as a fuel source in Kentucky helps keep the state's electricity rates among the lowest energy rates in the United States.

Representative Steele noted that over 560 coal mining jobs have already been lost in eastern Kentucky, which is preparing for the loss of another 200 jobs. James River has coal cars it cannot move.

In response to Representative Steele, Mr. Ashcraft said that when natural gas rates start rising it will cause a perfect storm of natural gas versus coal prices.

Representative Couch stated that billions of dollars in coal severance tax money have been paid to the state. He recommended that part of the coal severance money be put in trust to help communities affected by the loss of jobs.

Representative Webb said it was hard to be optimistic about coal. Regulations are a problem for both eastern and western Kentucky. Mr. Ashcraft responded that maybe eastern Kentucky, with the help of technology, will figure out how to deal with federal regulations.

Representative Gooch said that the federal Environmental Protection Agency will eventually go after all fuels.

#### **Innovative Mining Techniques and New Proximity Detection Technology**

David Clardy, Vice President of Matrix, explained that Matrix is a wholly owned subsidiary of Alliance Coal. Alliance Coal recognized the need for safer mines and asked that Matrix develop safety devices to better protect miners. IntelliZone Proximity Detection (IntelliZone) was developed to help save lives and reduce lost-time accidents with little or no loss in mine productivity. It has reliable underground technology with advanced software to provide the location of personnel and vehicles around the continuous miner. IntelliZone uses two operational awareness zones--a warning zone and a shutdown zone. The warning zone warns workers that they are near a potentially dangerous area, and the shutdown zone is closest to the equipment and causes immediately shut down when a worker enters this area. The zones are programmable. "Locators" are worn by workers or placed in another vehicle. "Drivers" are placed on the continuous miners. The locators warn personnel if they are too close to equipment, and the drivers shut-down the equipment if personnel wearing the locators enter the shutdown zone. Proximity of zones can be modified based on a variety of programmable inputs, such as speed and direction.

In response to Senator Webb, Mr. Clardy said that the price per kit for the IntelliZone Proximity Detection costs approximately \$70,000. Surfacing mining kits are less expensive. He said that

there are no health risks associated with wearing the locator devices. The radiation exposure for the devices is similar to holding a radio for eight hours.

#### **Kentucky Coal Academy**

Gary Whisman, Executive Director of the Kentucky Coal Academy, stated that he was a coal miner for 20 years. He said that the Academy was established in 2005 by the General Assembly to train and advocate for the safety of coal miners. Since 2005, the Academy has trained approximately 65,000 coal miners, including new and established miners. The Academy features a Mine Emergency Response Academy (MERA), as well as a Fire Brigade program. It also has the largest coal mine simulator fleet in the world. The Academy has three above ground simulated mines. The key to safety is prevention in all aspects of mining. About \$2.5 million in scholarships had been awarded to students as part of the Junior Coal Academy. There is an estimated supply of coal to last 250 years. It was also his opinion that natural gas will eventually be regulated just like coal.

Mr. Danny Knott, Director of the Mine Rescue Team, said that the mine rescue teams are some of the best in the nation. The teams placed first in Kentucky and third in the nationals.

Mr. Rick Caskey, Director of the Fire Brigade, mentioned that the program teaches miners how to fight fires in coal mines.

Senator Carpenter stated that the Academy provided the only coal mine simulator training facility in Kentucky and the United States.

Representative Henderson said that eastern Kentucky and western Kentucky need to work together in speaking out and being proactive in preserving the coal industry.

Representative Steele acknowledged former Representative Fred Nesler. He commented that industries surrounding coal are suffering due to the loss of coal jobs.

Representative Webb pointed out that there are female coal miners who have lost their jobs as well as their male associates. Representative Webb added that coal jobs have provided opportunities for education for women too.

The meeting was adjourned at 12:00 p.m. CST.

## **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

### **Minutes of the Fourth Meeting of the 2013 Interim September 18, 2013**

#### **Call to Order and Roll Call**

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, September 18, 2013, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 1:09 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton,

Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Perry B. Clark, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Kathy Stein, and Katie Stine; Representatives Julie Raque Adams, Robert Benvenuti III, Bob M. DeWeese, Kelly Flood, Ruth Ann Palumbo, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Kathryn Cohen, Legislative and Policy Counsel, Treatment Advocacy Center, Arlington, Virginia; Sheila Schuster, Advocacy Action Network and Kentucky Mental Health Coalition; Kelly Gunning, NAMI Lexington and family member; Kim Wilkie, District Court Judge; Ed Monahan, Department of Public Advocacy; Gina G. Burns, Family Member and Kentucky Mental Health Advocate; Brien Shea, President, EGI Healthcare Marketing; Randy Strause, Child Care Advocates of Kentucky; Dr. Terry I. Brooks, Executive Director, Kentucky Youth Advocates; Reggie Gentry, Member of the Protection & Advocacy for Individuals with Mental Illness Advisory Council and Retired Chaplain at Eastern State Hospital; Sarah McCoun, Stephanie Hold, Kim Rousch, and Mary Reinle Begley, Office of Inspector General; Terry Brownson and Diana Caldwell, Wendell Foster's Campus for Developmental Disabilities; Michelle DeJohn, Division of Childcare, Cabinet for Health and Family Services; Phill Gunning, Valerie Mudd, and Cathy Epperson, NAMI Lexington; Bill Doll and Cory Meadows, Kentucky Medical Association; Sandra Flynn, Grandmother; Becky Taylor and Carolyn Colliver, family members; Mark R. Brengelman, Kentucky Board of Physical Therapy; Christina Stopher and M. Brooke Anderson, parents; Emily Parento, Office of Health Policy, Cabinet for Health and Family Services; Sharon Yelton, Children, Inc.; and Mike Hamms, Kentucky's Voice for Early Childhood; Clyde Caudill, Jefferson County Schools, Kentucky Association of School Administrators; Molly Clouse and Ja-ron S. Teague, consumer.

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

#### **Minutes**

A motion to approve the minutes of the August 21, 2013 meeting was made by Representative Burch, seconded by Senator Clark, and approved by voice vote.

#### **Consideration of Referred Administrative Regulations**

The following administrative regulations were available for consideration: **201 KAR 22:045** – establishes continued competency requirements and procedures as a condition of license renewal by the Kentucky Board of Physical Therapy; **201 KAR 22:055E** – interim standards for supervision for physical therapists until September 1, 2013; **201 KAR 22:130** – outlines the per diem that members will receive when required to represent the

Kentucky Board of Physical Therapy or attend its meetings; **900 KAR 6:030** – provides for the adjustment of expenditure minimums for capital expenditures and major medical equipment; **900 KAR 6:120** – establishes the provisions for the certificate of need approved angioplasty two (2) year trial program in hospitals without on-site open heart surgery; **900 KAR 6:125** – establishes the requirements for registration of Magnetic Resonance Imaging units and the requirements for submission of annual survey data that are used to produce annual reports necessary for the orderly administration of the Certificate of Need Program; **906 KAR 1:200** – establishes a competitive grant program to provide funding to organizations which offer programs or services approved by CMS for the use of civil money penalties (CMP) funds, thereby establishing the CMP Fund Grant Program; **922 KAR 1:130 & E** – establishes the Kinship Care Program in Kentucky; **922 KAR 1:140 & E** – establishes the maximum number of children remaining in foster care longer than twenty-four (24) months, and establishes permanency services available to children in placement; **922 KAR 1:320 & E** – establishes procedures related to appeals and complaints for benefits and services under 922 KAR Chapters 1 through 5; **922 KAR 1:400 & E** – establishes standards for provision of supportive services to a family receiving ongoing case management services or to safely maintain a child in the child's home through the cabinet, to the extent funds are available; **922 KAR 2:020** – establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP); **922 KAR 2:090** – establishes licensure standards for a child-care center and describes the informal dispute resolution process; **922 KAR 2:100** – establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care home providers; **922 KAR 2:110** – establishes standards for child-care centers; **922 KAR 2:120** – establishes health and safety standards for child-care centers; **922 KAR 2:160 & E** – establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available; and **922 KAR 2:180** – establishes requirements for providers to participate in the Child Care Assistance Program and the application procedures. A motion to approve the administrative regulations was made by Representative Burch, seconded by Senator Harper Angel, and approved by voice vote.

#### **Barriers for the Delivery of Psychiatric Care**

Kathryn Cohen, Legislative and

Policy Counsel for the Treatment Advocacy Center in Arlington, Virginia, stated that the center seeks to remove barriers to treatment for people with severe mental illnesses such as schizophrenia and bipolar disorder. Court-ordered outpatient treatment or also known as assisted outpatient treatment (AOT) laws in Kentucky need to be improved by broadening the existing standard or creating a more flexible set of criteria, extending the duration of an outpatient order, and creating a safety net provision for those non-compliant with their treatment plan. Families are keenly aware of the enormous strides that medical science has made in recent decades to offer real hope of recovery to people with severe mental illness. But the key is to get those individuals under medical treatment. People who receive treatment for a severe mental illness are no more likely to engage in violence than anyone else. Treatment is the key to maintaining strong bonds with friends and family, as well as avoiding hospitals and jail. The primary reason treatment for a family member in psychiatric crisis is a challenge is an anatomical brain condition that afflicts many people with schizophrenia and severe bipolar disorder, anosognosia. People with anosognosia simply are unable to recognize their own illnesses no matter how painfully obvious it may be to everyone around them, and they often reject all efforts to get themselves into treatment.

Court-ordered outpatient treatment requires that individuals with severe mental illness adhere to a prescribed treatment plan as a condition of living in the community. One of the main goals of outpatient treatment for people with severe mental illness is to facilitate more consistent adherence to treatment when the person is unable to seek and voluntarily comply with treatment. Typically, treatment combines a court order and a comprehensive treatment and services plan. The court's role and the legal procedures related to outpatient commitment laws vary from state to state.

In 2012, the federal Department of Justice certified assisted outpatient treatment as an evidence-based practice for reducing crime and violence. A study in New York documented that AOT recipients experienced fewer hospitalizations, homelessness, arrests, and incarceration. A 2010 Columbia University study found that individuals under outpatient commitment who were more violent to begin with were four times less likely than those without a commitment order to perpetuate serious violence after undergoing treatment. Court-ordered outpatient treatment laws exist in 45 states, including Kentucky. The current Kentucky standard applies to both inpatient commitment and outpatient commitment but judicial involvement is limited for the following reasons: (1) outpatient treatment is only available to individuals who meet the first three criteria

in the statute for commitment, including (1) dangerousness; (2) the current time period for court-ordered outpatient treatment is too short, a maximum of 120 days; and (3) there is no consequence for non-adherence to an outpatient treatment order.

Ms. Cohen suggested three ways Kentucky can improve its laws would be either to broaden existing commitment standards or create a more flexible separate set of criteria for outpatient commitment, extend the duration of the outpatient treatment order to one year with an opportunity for renewal, and create a provision for non-adherence to the program as a presumptive ground for a need for evaluation so that individuals can immediately get the proper medical attention when they lapse from their plan. Improving the laws is a critical component to ensure timely and effective treatment for Kentucky's most vulnerable citizens.

Reggie Gentry, member of the Protection and Advocacy for Individuals with Mental Illness Advisory Council and retired Chaplin, stated that people with mental illnesses do better if not forced into treatment but given choices. An AOT order will put a stigma on people with mental illness. Motivational counseling is effective in a person's treatment and recovery. The mental health system would benefit from more peer support specialists, statewide drop-in centers, and re-establishment of day treatment centers in community mental health centers. People with mental health illnesses are no more harmful than people without mental illnesses.

Kelly Gunning, NAMI Lexington and parent, stated that mental illness affects the entire family, and it takes the entire community to help people with mental illnesses. A mental inquest is needed for court-ordered treatment. In order to create an opportunity for meaningful change it is of paramount importance to bring all stakeholders together to define and create the kind of mechanisms needed to ensure that individuals who experience the major life threatening and impacting systems of Serious and Persistent Mental Illness (SPMI) can access the level of care needed when they do not meet hospital admission criteria under 202A. Significant obstacles and barriers to care and issues which impact 201A and AOT include: (1) difficulty in obtaining hospital admissions; (2) stringent, subjective, and often misinterpreted admission criteria; (3) lack of payor source for hospitalization; (4) huge mental health parity issues; (5) lack of payor source for community-based services which narrows the options for care; (6) no standardized utilization across the state of existing, potentially helpful statutory tools; and (7) negotiating and balancing civil liberty issues. Proposed opportunities for improvement are creating a point of contact action mechanism and using evidence-based practices.

Sheila Schuster, Advocacy Action Network and Kentucky Mental Health

Coalition, stated that mental health issues cannot be solved by more money but by use of services. Medicaid does not reimburse the 200 consumers trained as nationally certified peer support counselors. Someone committed to a hospital needs representation in order to make sure the language of the agreed order is understood by the patient. Evidence-based criteria do not always work as well in rural areas. Everyone needs to work collaboratively to find solutions. The mental health advanced directive helps a provider know the wishes of the patient whether or not the patient is able to convey them. The balancing of the rights of persons with mental illness and the concerns of the family members are complex. Just because someone has a mental illness, it does not mean that they do not have rights. The mentally ill are no more likely to be dangerous than anyone else and are ten times more likely to be victimized by a violent crime than be the perpetrator.

Kim Wilkie, Fayette District Court Judge, stated that Decriminalize Mental Illness – Take Down The Wall Committee is working to get a mental health court established in Fayette County. Because some people have offenses in all of the courts, the mental health court, drug court, and veterans' court, a combined court would be ideal. Fayette County is in the process of establishing a drug court that would prevent an individual with a misdemeanor from going through an indictment process and have a felony record. The goal of the mental health court is to save lives and help families. Individuals with severe mental illnesses need help.

Ed Monahan, Chief Public Advocate, Department of Public Advocacy (DPA), stated that the Department of Advocacy has 32 public defender trials offices statewide that represents over 160,000 clients in District Court, Circuit Court, Kentucky Court of Appeals, and the Kentucky Supreme Court. The DPA has longstanding experience in representing persons with mental illness for drug offenses, penal code offenses, juvenile offenses, and involuntary commitments. Public defenders represent people facing a loss of liberty. Everyone has a constitutional right to freedom, including the mental ill. KRS 202A.026, Criteria for involuntary hospitalization, states that no person shall be involuntarily hospitalized unless such person is a mentally ill person: (1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness; (2) Who can reasonably benefit from treatment; and (3) For whom hospitalization is the least restrictive alternative mode of treatment presently available. Public defenders represent most individuals being proceeded against in a KRS Chapter 202A involuntary commitment proceeding. In fiscal year 2013, Kentucky public defenders were assigned to 3,479 cases statewide.

Keys to reducing the risk of violence by people with serious mental illness are

providing aggressive and intensive case management, a comprehensive array of community support services, individual case managers with small caseloads, 24-hour availability of case managers, strong linkages to agencies providing mental health services, substance abuse treatment, social services, and intensive case managers. Specialty courts are a good way to address special problems more effectively but are a costly model. DPA has a successful alternative sentencing social worker program that is working for some clients with substance abuse issues, those who are mentally ill, juvenile cases, and some 202A cases. The DPA's social worker alternative sentencing program pilot was recognized as one of the 25 most innovative government programs in the country by the Ash Center for Democratic Governance at the Harvard Kennedy School of Government for 2013. Public defenders lower costly incarceration rates for counties and the state.

G.G. Burns, family member and Kentucky mental health advocate, stated that she is the mother of a 26-year old son who suffers with a neurological syndrome called anosognosia where he lacks insight into his own illness. People in crisis often treat the very people who love them the most the worse. Improving the outpatient standard will allow effective treatment for Kentucky's most vulnerable people instead of forcing them to jail. Legislation needs to be adopted that would help families have options for treatment before a tragedy occurs and provide for longer periods of care than 60 or 180 days. Incarcerations instead of treatment are bad public policy. The reason the current treatment law is not utilized is not due to lack of funding, but because it requires a person to meet inpatient civil commitment first before it is ordered. This almost never happens, because most patients are not held beyond seven days, even if they are admitted under KRS 202A, with a warrant. Treatment is better than incarceration and cheaper. Mental illnesses are the only diseases where patients are punished for their symptoms.

In response to a question by Representative Wuchner, Ms. Gunning stated that a CASA type program for someone with a mental illness has potential to help an individual navigate care. Ms. Cohen stated that the CASA program is very effective.

In response to a question by Representative Burch, Ms. Cohen stated that there are number of states that have implemented AOT effectively. Mr. Monahan stated Kentucky already has had a successful behavioral health model that was piloted in three locations.

Representative Benvenuti stated that there needs to be a full spectrum of opportunities available for individuals and families. The liberties of the victims have to be considered along with the liberties of the mentally ill person. Ms. Cohen stated that Kentucky should not hold the AOT hostage because of the lack of funds or



until all of the aspects are resolved.

**Michelle P. Waiver**

Brien Shea, President, EGI Healthcare Marketing testified that he is a parent of a son with down syndrome who was part of the First Steps program until he was no longer eligible after the age of three years. Children should be eligible for First Steps until the age of 5 years. The more help available for children now will save money later. Early intervention is absolutely necessary. It takes too long for a case to be reviewed before a child can receive services. The process should be streamlined in order not to have gaps in necessary services.

Lisa Lee, Deputy Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, stated that the Michelle P. waiver serves approximately 9,260 individuals with a cap of \$10,000 per recipient. The administrative regulation stipulates that an individual has to meet the level of care and without the waiver services the individual would be admitted to an intermediate care facility or mental retardation facility. The Department for Behavioral Health and Intellectual Disabilities within the Cabinet for Health and Family Services is working with the Department for Medicaid Services to make sure Michelle P. waiver is administered properly.

In response to a question by Senator Denton, Betsy Dunnigan, Acting Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), Cabinet for Health and Family Services, stated that when the waiver program was developed in response to the continually growing waiting list for Supports for Community Living (SCL) services. The majority of individuals on the waiting list did not need residential services at the time, but were on it because of possible future needs. The majority of individuals on the waiting list were adults, but over time more children needed services. The assessment tool utilized for the waiver program is an adult tool and not appropriate for children. The DBHDID has been looking at appropriate, tested, proven child assessment tools, and a recommendation will be given to DMS. The DBHDID will have the review completed and taken to the Commission on Services and Supports for Individuals with an Intellectual Disability and Other Developmental Disabilities (HB 144 Commission) around October 10, 2013. The intention is to have a consistent streamlined process for services.

In response to a comment by Senator Bowen, Acting Commissioner Dunnigan stated that the Medicaid waiver programs have federal requirements and criteria and are established as an alternative to institutional care.

In response to a question by Senator Harper Angel, Acting Commissioner Dunnigan stated that the department has talked with other states about outcomes based on child assessment tools. The top recommendation along with an alternative

recommendation will be taken to the HB 144 Commission.

**Discussion of Referred Child Care Administrative Regulations – 922 KAR 2:020, 922 KAR 2:090 & E, and 922 KAR 2:160 & E**

Randy Strause, Child Care Advocates of Kentucky, stated that proposed amendments to 922 KAR 2:090 & E and ordinary regulation and 922 KAR 2:160 & E and ordinary regulation establish a finding of fraud cause of action which would violate due process. Under 922 KAR 2:160 & E, Section 17, the cabinet can be the judge, prosecution, and executioner by automatically withholding government benefits from the Child Care Assistance Program (CCAP) recipients without affording them a constitutionally guaranteed opportunity to be heard. Judge Phillip Shepherd, Franklin Circuit Court, issued a temporary restraining order (TRO) against the Commonwealth and the cabinet. The TRO ordered the Commonwealth and the cabinet to be restrained and enjoined from implementing or enforcing the amendments in either 922 KAR 2:090 & E or 922 KAR 2:160 & E pending further orders of the court and from withholding CCAP payments from the named plaintiffs in the case until after the cabinet has fully complied with the requirements of KRS 13B.125 and KRS 199.896 to implement emergency action and to provide for an expedited hearing and appeal of any such action. The case has not been settled and the TRO is still in effect, and the due process and equal protection causes of action are still being litigated before the Franklin Circuit Court.

The terms intent or intentional and fraud are not defined nor given standards for application. Without explicitly defining the terms, those who administer the CCAP program have wide discretion in determining whether a provider is fraudulent. It is crucial that there is consistency of thought of definition in administering the regulations. Without clear definitions, the Commonwealth will displace children and families from quality child care centers because of ambiguous interpretations.

As the administrative regulation is written, it appears that a license may be automatically revoked due to an intentional program violation finding for a CCAP provider. This directly ties eligibility for a financial subsidy program to a license that is issued to protect the health, safety, and welfare of children. Further, it removes a licensure benefit from providers without affording them an opportunity to be heard and is a violation of day care service providers' due process.

The cabinet utilizes a CCAP Operations Manual to interpret regulations and statutes. The manual is not incorporated by reference into the regulations as required by KRS 13A.130, which states that an agency may not regulate by internal policy without the legislature's consent. The manual sets

monetary limits on when the cabinet will refer fraud cases to the Office of Inspector General (OIG). Nowhere are monetary limits for fraud case referrals to the OIG codified.

The new DDC-94E form lists multiple children on one sheet for signing in and out. This allows other clients to know which children are physically in the center, the arrival and departure times of each student, who is dropping them off and picking them up, and their pattern of arrival and departure. This makes it impossible for providers to keep confidential information as required by 922 KAR 2:110, Section 3(2)(a) and (3).

The Child Care Advocates of Kentucky recommend that 922 KAR 2:020 ordinary regulations, 922 KAR 2:090 & E and ordinary regulation, 922 KAR 2:110 ordinary regulation, and 922 KAR 2:160 & E and ordinary regulation be amended to redact or revise the deficient provisions or withdraw and redraft the regulations in compliance with its requests and promulgate the redrafted versions.

Dr. Terry I. Brooks, Executive Director, Kentucky Youth Advocates, stated that the top three reasons to support Kinship Care in Kentucky are that it is better for kids, better for families, and better for taxpayers. As of April 1, 2013, no new families are allowed to participate in Kinship Care. Current families will be allowed to continue receiving support. CCAP helps families access quality child care. The program provides subsidies for parents that are working or receiving educational training. In Kentucky over 75,000 children receive the CCAP subsidy. On April 1, 2013, DCBS placed a freeze on applications for CCAP. On July 1, 2013, the department reduced the eligibility requirement for the program from the current 150 percent of the federal poverty level to 100 percent. Working parents may have to quit their jobs in the absence of quality child care. Parents that do continue to work may seek out caregivers that are unqualified or ill-equipped to care for a child and that puts children at risk of abuse or neglect. KYA recommends that the eligibility should be raised to 200 percent of the federal poverty level.

Representative Burch stated that the General Assembly did not allocate enough money because there was not enough money to fund every program.

In response to questions by Representative Benvenuti, Mr. Brooks stated that all daycare providers qualify for CCAP subsidies, even though there are some that provide lower quality care. Co-pays for CCAP are based on a parent's income.

Sandra Flynn, grandmother and Kinship Care recipient, stated that the Kinship Care program needs more money to help children placed in a family member's home because of abuse or neglect by the parent. Families depend on the money provided by the Kinship Care program to provide for the children placed

in their care.

Christina Stopher, mother and Child Care Assistance Program recipient, stated that 80 percent of her salary goes to child care. If her CCAP funds are cut, she will be forced to have to quit her job and go on welfare, because being a single mom she would not be able to afford day care for her children.

Senator Denton stated that cuts in one program affect other programs.

Brooke Anderson, mother and Child Care Assistance Program recipient, stated that she is a single mother of three children and is employed at the Home of the Innocents. It is going to be hard to continue working without child care assistance. She said that she has worked very hard to better her own and her children's lives, and if she has to quit her job, it could mean that they have to go to a homeless shelter. It is not fair to her or her children.

Sharon Yelton, Children, Inc., mother and former Child Care Assistance Program recipient, stated that CCAP still works how it was intended to work. Parents do not want to have to worry about the quality of care for their children. She said that when her son was small she received child care assistance that allowed her be able to go to college and get her degree. Daycare takes a huge amount of someone's salary. Cuts in child care assistance will end up costing more in the long run.

**Adjournment**

There being no further business, the meeting was adjourned at 3:48 p.m.

**INTERIM JOINT COMMITTEE ON JUDICIARY**

**Minutes of the 3rd Meeting of the 2013 Interim October 4, 2013**

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, October 4, 2013, at 10:00 AM CST., in Hopkinsville, Ky. at the Christian County Justice Center. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Sara Beth Gregory, Jerry P. Rhoads, and John Schickel; Representatives Reginald Meeks, Darryl T. Owens, Ryan Quarles, Tom Riner, Steven Rudy, Ken Upchurch, Gerald Watkins, and Brent Yonts.

Guests: Chief Justice John D. Minton, Jr. and his Chief of Staff, Katie Shepherd; Morgain Sprague, Counsel, Kentucky State Police; Lt. Brian Sumner, Kentucky State Police Criminal Identification and Research Branch; and Kelly Stephens, Counsel, Administrative Office of the Courts.

LRC Staff: Jon Grate, Matt Trebelhorn, Alice Lyon, Dallas Hurley, Nicole Straus, and Kathy Miller.

### **Approval of Minutes**

The minutes of meetings one and two of the Interim Joint Committee on Judiciary were not approved, as a quorum of members was not met.

### **Welcome**

Senator Whitney Westerfield welcomed Chief Justice John Minton, Jr. to the meeting, and recognized the many judges and public officials in the audience. Representative John Tilley joined in the welcome and noted both that Hopkinsville is the fastest growing city in Kentucky and the best place to watch the longest total eclipse in 2017.

### **State of the Judiciary Address: The Changing Face of Kentucky Courts**

Chief Justice John Minton, Jr. presented the State of the Judiciary address to the Committee. Chief Justice Minton said he was proud of the partnership achieved with the legislature, and the balance of good government, maintaining separation of powers without compromising collaboration.

Chief Justice Minton spoke about several factors impacting how the courts carry out their business.

### **Mediation on the Rise**

The rising cost of discovery, the expense and time involved with going to trial, and the unpredictability of jury verdicts have resulted in a significant decline in jury trials. Mediation mitigates some of these concerns by giving parties an opportunity to save time and money. There has been an increase in parties using mediators to resolve conflicts since the AOC created a mediation program in 2005, relieving some of the strain on court dockets. For criminal cases, the Felony Mediation Program started in 2008 and has grown steadily with an 81 percent settlement rate.

### **Self-Represent Litigants**

Particularly in Family Court, the number of self-represented litigants has been on the rise for several years. The factors driving the trend are the cost of legal representation and the loss of funding for civil legal aid programs. The statewide legal aid funds have decreased by \$3 million, or 25 percent. While funding and programs decrease, the number of low-income Kentuckians increased by 27 percent.

Challenges as a result of the increase in self-represented litigants include longer court proceedings to familiarize litigants with court procedure, a higher margin of error impacting the course and outcome of a case, and limited legal resources for legal advice.

### **Escalating Demand for Court Interpreters**

The cost to the court system to provide interpreters to parties and defendants who enter the court system without the ability to communicate in English is \$2 million in 2013. Recent and rapid changes in the number of languages and dialects requiring interpreters have stressed the limited resources of the court interpreting program. 90 certified and

registered interpreters, representing 31 different languages, are listed on the AOC Interpreter Directory.

### **Problem Solving Courts**

Kentucky is embracing the role of problem-solving courts to deal with specific types of cases. This expansion places a demand on the time and energy of the trial court judges.

Family Court case filings have increased, sometimes to the point of unmanageability. Family Court serves 3.2 million citizens in 71 counties.

The jurisdiction of Family Court includes: Dissolution of marriage; spousal support and equitable distribution; child custody, support and visitation; paternity, adoption; domestic violence; dependency, neglect and abuse; termination of parental rights; and status offenses. These cases would otherwise be heard in circuit and district courts. The benefit of Family Court is that one judge will hear all the legal issues of a family, providing continuity.

Drug Court has been successful in combining treatment and legal support to participants. This jail alternative substance abuse program is supervised by circuit and district court judges and has had 6000 graduates since 1996. Other successes include the birth of 865 drug-free babies and over 1.1 million community service hours worked. Justice Minton characterized the volunteer roll of the Drug Court judges as “a calling.”

Veterans Treatment Court provides treatment and support services to veterans in the justice system. VTC began operating in Jefferson County, November, 2012 with a \$350,000 grant from the U.S. Department of Justice. Hardin County has received the same grant.

Mental Health Courts use judicial oversight and mental health assessments and treatment to reduce the recidivism rate of mentally ill offenders while protecting public safety. With significant commitment from judges and community partners, the Northern Kentucky Regional Mental Health Court has diverted 219 participants from 36,000 jail days. Chief Justice Minton recognized the efforts of Karen Thomas and Kelly Easton in making the program a success.

### **Pretrial Services**

House Bill 463 has resulted in higher rates of pretrial release for moderate and high risk defendants, dramatically increasing the workload of pretrial officers. Pretrial officers interview and investigate individuals who have been arrested and make recommendations to a judge regarding their pretrial release. The court system is absorbing the cost of adding and training personnel who can handle the level and volume of supervision. Since HB 463 went into effect, pretrial officers have made more than 327,000 defendant contacts.

### **Senior Judges Program**

The court system has been saving money by allowing senior judges to fill in for judicial vacancies, delaying the cost of a new sitting judge. Citizens got

access to justice more quickly when there were experienced senior judges to keep cases moving. The Senior Status Program for Special Judges will soon be ending, resulting in the system reverting to requiring sitting judges to cover for each other during absences. The result will likely be delays in already heavy dockets.

Another concern on the topic of retired judges is that recent legislative changes to the state pension system will have a detrimental effect on Kentucky’s ability to attract experienced, competent attorneys to be judges.

### **Purchase of New AOC Office Building**

The AOC will be moving into its own building on Vandalay Drive in November 2013. The payments for the lease-purchase of the building are within the rental amount the AOC currently pays for the Millcreek Park location. The AOC will save more than \$1 million a year when the building is paid off. The Vandalay location will bring staff together under one roof and have a positive impact on morale.

### **Breakthroughs in Court Technology**

The court system is hindered by the lack of current technology. Updates are planned for the obsolete case management system and electronic filing. Committees are being formed to oversee the eCourts initiative, addressing the changes to court rules, guidelines, and business processes. AOC is installing a new automated bookkeeping function for circuit court clerks’ offices and launching CourtNet 2.0, which lets members of the legal system access civil and criminal court cases on line and in real time.

### **Pay Equity for the Judicial Branch**

Investing in human resources is a top priority. Lagging Judicial branch salaries severely compromise the ability to recruit and retain the caliber of employees who can handle the complex work of the courts. Chief Justice Minton said he will request legislation, a “Pay Equity Initiative,” with an appropriation to increase the wages within the court system to bring Judicial Branch salaries in line with other branches of government.

### **Conclusion of the State of the Judiciary Address**

Chief Justice Minton emphasized that Kentucky’s judiciary is resourceful and resilient, using creativity and drive to deliver justice at a high level during an era of change.

Chief Justice Minton and his chief of staff, Katie Shepherd, answered questions from committee members. Senator Rhoads asked about the status of tracking restitution payments from convicted defendants. Katie Shepherd answered that it is a labor intensive process, that many clerks taking care of payments, and that the new accounts receivable program will help.

Representative Watkins asked Justice Minton about the current timeframe from arrest to trial. Justice Minton said that

he does not know all the data but there is a backlog in evidence collection and administrative tasks in court. He further explained that use of the Senior Judges Program would help to keep cases moving through the court system.

Representative Rudy posed a question to Katie Shepherd about the approval of funding for the new AOC building. Ms. Shepherd replied that the budget authorized a lease in Franklin County, and that the court’s internal rules allowed those funds to be used for a lease-purchase arrangement. She also pointed out the budget savings and careful use of the limited resources.

Representative Meeks asked about the number of veterans served by Veterans Court and future projections. Ms. Shepherd replied that there is no data available.

In response to a question from Representative Meeks on the sex and ethnicity of judges, Chief Minton said that there is always an emphasis on members of the bench reflecting the demographics of the rest of the state.

Senator Schickel commented that the disproportional work load for judges calls for court redistricting. Chief Justice Minton agreed that this was a fair point, and that case load demands are not equitable state wide. By way of example, Chief Justice Minton said there was a constitutional imperative that Family Court be available statewide, but it is not. Discussion of the prohibition of political association in judicial races followed a comment by Senator Schickel that the right to free speech in campaigns is being infringed upon.

### **Everything You Want to Know About Expungements**

Morgan Sprague, Counsel, Kentucky State Police, and Kelly Stephens, Counsel, Administrative Office of the Courts spoke about the expungement process. Expungement is the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state-performed background checks. By statute, the motion for expungement shall be filed no sooner than sixty days following of the order of acquittal or dismissal by the court. The court must notify the County or Commonwealth’s Attorney of an opportunity to respond to motion and notify CHFS General Counsel in cases involving abuse or neglect of child. Also in statute, the court may grant the expungement after finding that there are no current or pending charges in the matter sought to be expunged. The order must be on a form provided by AOC. Subject agencies must certify within 60 days of order that the expungement is complete. The statute also states that a person convicted of a misdemeanor, violation, or traffic infraction or a series of these infractions arising from a single incident may petition the court of conviction for expungement of the conviction and any amended or dismissed charges in the



same action. The petition shall not be filed until 5 years after the completion of the person's sentence or probation, whichever occurs later.

When the Court receives a petition, the statute directs a date to be set and parties notified. The court must grant expungement order if petitioner submits eligibility certification and at the hearing the court finds that the offense was not a sex offense or an offense committed against a child, the person had no previous felony convictions, and that the person had not been convicted of any other misdemeanor or violation offense in the 5 years prior to the conviction sought to be expunged. Also, the person should not, since the time of the conviction sought to be expunged, have been convicted of a felony, misdemeanor, or violation, and can have no pending felony, misdemeanor, or violation.

Expungement certification petitions must include a background check from AOC and KSP and the applicant must pay the requisite fees. An explanation of the electronic filing process for certification was discussed. Behind the scenes, the AOC process the payment, completes the background check, including a search of KCOJ records, and electronically transmits background check information and the fee to KSP. KSP in turn conducts its background check, checks compliance with statutory requirements, and completes the form indicating whether the applicant is eligible for expungement.

All documents are returned to the applicant, who then files the petition with the Office of the Circuit Court Clerk. A hearing is held, and if the Court finds that the applicant qualifies, the expungement petition is granted.

The Circuit Clerk completes the process by performing the steps that may include physically segregating the record from other files.

#### **Felony Expungements**

Expansion to felony expungements create the issue of an increased logistical burden due to the 94,645 cases that would qualify, and the diluted effectiveness of background checks for professional licenses or employment in a position involving access to money, medication, children or the elderly. The fiscal impact of expanding expungement would run \$59.56 in hourly compensation. In 2012, KSP incurred costs of \$1,019,607.64 for which it received no reimbursement.

Senator Gregory asked about the process timeline. In response, Ms. Sprague answered that the process takes 30 days to 2 months and has associated fees of \$30.00 for a background check and \$100 filing fee.

Representative Riner asked whether a person may truthfully answer "no" to a conviction on an employment application. Ms. Sprague answered that one is being legally honest that he or she has not committed a crime after the expungement.

In response to questions about filing fees from Representatives Watkins

and Owens, Ms. Sprague said that as of January 1, 2014, a \$100 filing fee would go to the general fund, and 2 separate \$20 fees would go to KSP and AOC for background checks.

The 3<sup>rd</sup> meeting of the Interim Joint Committee on Judiciary was adjourned at 12:00 PM CST.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

### **Minutes of the 4th Meeting of the 2013 Interim October 11, 2013**

#### **Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 11, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Julian M. Carroll, Jimmy Higdon, Christian McDaniel, Morgan McGarvey, R.J. Palmer II, and Dan "Malano" Seum; Representatives Tom Burch, Denver Butler, Larry Clark, David Floyd, Dennis Horlander, Joni L. Jenkins, Charles Miller, Brad Montell, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Arnold Simpson, Ken Upchurch, and Susan Westrom.

Guests: Mike Townsend, President of Kentucky Association of Alcohol and Drug Professionals, Dr. Patrick McKiernan, Homeless Veterans Outreach Coordinator, Department of Veterans Affairs; Lara Barrow, CRNA, President, Kentucky Association of Nurse Anesthetists, Soren Campbell, Kentucky Academy of Anesthesiologists Assistants and Ross Cotton, M.D.

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

#### **Approval of minutes**

A motion to approve the minutes from the September 16, 2013 meeting was made by Representative Upchurch and seconded by Representative Owens. The motion was carried by voice vote.

Senator Schickel said that the Advanced Practice Registered Nurse discussion that was originally on the agenda was taken off as the interested parties have not come to an agreement. He added that the two groups have been meeting on a regular basis and are close to an agreement.

#### **Licensing of alcohol and drug counselors**

Representative Joni Jenkins introduced her bill, BR 9, AN ACT relating to alcohol and drug counseling. She said that very similar legislation had passed both chambers during the last regular session but was not enrolled before the session ended.

Mike Townsend told members

there is an alcohol and drug problem in Kentucky, creating a growing need for licensed alcohol and drug counselors. The legislation establishes three categories for alcohol and drug counselors; a registered peer support specialist, a certified counselor, and a licensed status for individuals with a masters degree in behavioral science. This ensures the public that qualified people are treating clients who have substance abuse disorders. Also, the board will maintain a register of persons who want to become peer support specialists. These are individuals who have at least two years of sustained recovery from substance abuse who would work with professionals. The bill will promote academic training and encourage universities to develop curriculum relating to alcohol and drug abuse counseling.

Patrick McKiernan, Homeless Veterans Outreach Coordinator with the Department of Veterans Affairs said the mission of the department is serving Kentucky's 340,000 veterans and their family members. The department has enrolled about one third of the veterans in Kentucky in its health care system, but none of their family members. Without this bill, veterans and their families, who will soon be able to enroll in health care, will not have access to licensed alcohol and drug counseling.

In response to a question from Senator Schickel, Mr. McKiernan said in talking with Eric Friedlander of the Cabinet for Health and Family Services it was his understanding that licensed individuals are recognized as independent practitioners which allow them to bill for reimbursement.

In response to a question from Representative Westrom, Mr. McKiernan responded that trauma informed care has become an area of focus in training in recent years.

In response to a question from Representative Simpson, Mr. Townsend said there are certified alcohol and drug counselors as well as social workers and others currently providing treatment services throughout the state. However, this bill recognizes a unique body of knowledge about substance abuse specific treatment of this disorder. The legislation would not prohibit other professionals from providing treatment in their area of expertise, but it would also allow other professionals to obtain licensure or certification demonstrating enhanced knowledge of substance abuse treatment.

In response to a question from Representative Floyd, Mr. Townsend said there will be no impact on churches that are providing recovery programs.

In response to a question from Representative Keene, Mr. Townsend said he does not have any information regarding reimbursement for drug rehab treatment.

Representative Jenkins said that she and Representative Owens had attended a conference on integrating primary health care with behavioral health and substance

abuse. Healthcare professionals often need to work together to make a complex diagnosis of a chronic illness when it is connected to a behavioral health or substance abuse issue.

Senator Carroll opined that this legislation provides a mechanism to circumvent the final disease or condition that people with substance abuse problems will eventually encounter. This bill allows counseling and treatment by a professional and allows the professional to bill for reimbursement, to provide treatment early in the process before costly final stage care is needed.

#### **Anesthesiologist Assistants**

Lara Barrow, CRNA, President of the Kentucky Association of Nurse Anesthetists told committee members there are 850 CRNAs in Kentucky. Anesthesiologist Assistants can also currently practice in Kentucky, as long as they are also licensed as physician assistants. There must always be a supervising anesthesiologist present. The critical difference between an anesthesiologist assistant and a CRNA is that CRNAs may also practice independently of anesthesiologist supervision in both urban and rural settings. Access to health care in Kentucky is more important than ever, with more Kentuckians now having health coverage. CRNAs are the sole providers of anesthesia in 24 rural counties. Finally, anesthesiologist assistants are not allowed to bill Medicare for non-medically directed anesthesia services.

In response to a question from Senator Schickel, Ms. Barrow said in Kentucky an anesthesiologist assistant must also be a physician's assistant.

In response to a question from Senator Carroll, Ms. Barrow said billing is no different for CRNAs and anesthesiologist assistants.

In response to a question from Representative Jenkins, Ms. Barrow said the CRNA is required to have a bachelor's degree in Nursing, with one to two years of ICU experience, followed by graduate school.

In response to a question from Representative Owens, Ms. Barrow said that by 2020 all programs will be doctoral programs, but they are currently masters degree programs.

Soren Campbell, Anesthesiologist Assistant (AA) practicing at Christ Hospital in Cincinnati, Ohio told committee members that the statutes in Kentucky for AAs require AA to first have a physician assistant license from a four program before becoming an AA. There is no such four year program in Kentucky. AA programs are master level programs like the physician assistant programs. Kentucky is the only state that requires an AA to be a physician assistant first.

Independent billing should not be mistaken as a statement for the level of competence or practicing independently. AAs practice under an anesthesiologist at all times and can only receive payment through that setting. The AAs are not

asking for independent practice but rather to be licensed.

Dr. Ross Cotton, Anesthesiologist, Nortons Hospital, said the educational requirements for an AA are a masters degree. This comes after a four year pre-med bachelor's degree curriculum and requires re-certification every six years. In recent years, CRNAs come from Tennessee and other border areas to fill the need in Kentucky. However, there is a large turnover in CRNAs, and there is a need for additional qualified practitioners.

In response to a question from Senator McDaniel, Mr. Campbell said AAs are allowed to practice in Kentucky. However, Kentucky has a burdensome requirement of getting a physician's assistant degree before the AA degree. Mr. Campbell said he is proposing elimination of the dual requirement and allowing AAs to be licensed after completing an AA program

#### **AN ACT relating to alcoholic beverages**

Senator Jimmy Higdon said that a task force recently studied Kentucky law pertaining to alcohol sales. The findings of that task force revealed antiquated laws in a number of areas, resulting in legislation during the 2013 regular session. That legislation, Senate Bill 13, made changes to multiple statutes. However, if an issue was judged to be controversial it was not added to the bill for fear of derailing all the other issues the bill addressed.

Senator Higdon said that he will be bringing a bill to the 2014 legislative session with some of the issues that were not in SB 13. The 2014 bill will allow by the drink alcohol sales at bed and breakfast establishments in wet territory. It will require the person or persons who request a local option election petition to pay for the cost of the election, taking that burden off of the county government. It will establish a uniform city or county population ratio for quota retail package licenses statewide, similar to the Alcoholic Beverage Control Administrative Regulation language regarding this topic. There are about 600 licenses that are not in use across the state. Because package liquor stores are becoming larger, there is not a need for as many licenses. The bill will also create a double random lottery for awarding quota package and quota drink licenses in areas that vote to go wet to prevent claims of bias in awarding a quota license.

The bill also addresses a growing part of the alcohol market, "cider." There is a need to change current language to define "hard" cider as 7 percent or more alcohol, while "weak cider" would be defined as cider with more than 1 percent but less than 7 percent alcohol. Weak cider would then be defined as a malt beverage and could be sold by beer distributors.

Finally, the bill will make a change in the license fees for distilleries. The bill leaves the fee for distilleries that produce more than 50,000 gallons per year at the current amount of \$3,090. A distillery that

produced 50,000 gallons or less per year would pay a reduced fee of \$1,000.

Senator Schickel said that during his time as co-chair of the committee he has been pleased with the approach the committee has taken with alcohol legislation.

In response to a question from Representative Keene, Senator Higdon said the bill mainly speaks to quota licenses in counties that have an increased population.

Representative Clark commented that consideration of an increase in the amount of ounces that micro breweries are able to sell might also be added to the bill. He cautioned that in doing this there should not be a conflict with the three-tier system. Also, allowing sales of alcohol in state parks would give parks control of the amount of alcohol consumed, as well as helping with tourism. Golfers and others bring their own beer and parks are losing that revenue opportunity. A wet/dry election would still be necessary.

In response to a question from Representative Westrom, Senator Higdon said that the sale of alcohol in groceries would not be addressed in his legislation.

In response to a question from Representative Burch, Senator Higdon said he did not know how many bed and breakfast businesses were in Kentucky.

Senator Buford commented that the language regarding sale by the drink in a bed and breakfast should clarify that only a guest with proof he or she is registered to stay at the establishment would be eligible to purchase alcohol by the drink.

There being no further business to come before the committee, the meeting was adjourned at 10:56 AM

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

**Minutes of the 2nd Meeting of the 2013 Interim**  
September 25, 2013

### **Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Local Government was held on Wednesday, September 25, 2013, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Joe Bowen, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Walter Blevins Jr., Ernie Harris, Stan Humphries, Christian McDaniel, Morgan McGarvey, R.J. Palmer II, Dan "Malano" Seum, and Damon Thayer; Representatives Julie Raque Adams, Ron Crimm, Mike Denham, Richard Henderson, Adam Koenig, Stan Lee, Brian Linder, Tom McKee, Michael Meredith, Jody Richards, Jonathan Shell, Arnold Simpson, Kevin Sinnette, and Rita Smart.

**Guests:** Representative Tommy Thompson; Ambrose Wilson, Michael Davis, Gary Peck, and Jack Coleman, Department of Housing, Buildings,

and Construction; Richard Dobson, Department of Revenue; LaRue County Judge/Executive Tommy Turner; Mayor Jim Gray, Lexington-Fayette Urban-County Government; Mayor Greg Fischer, Pat Mulvihill, and Sara McGowan, Louisville Metro Government; Daviess County Judge/Executive Al Mattingly; Jason Bailey, Kentucky Center for Economic Policy; Shelley Hampton, Kentucky Association of Counties; Vince Lang, Kentucky County Judge/Executive Association; J.D. Chaney and Bert May, Kentucky League of Cities; Ron Wolf, Associated General Contractors of Kentucky; Prentice Harvey, Greater Louisville, Inc.; Marty White, Kentucky Society of Certified Public Accountants; Erik Jarboe, LearNet; Bryan Alvey, Kentucky Farm Bureau; Gay Dwyer, Kentucky Retail Federation; and Bob Weiss, Home Builders Association of Kentucky.

**LRC Staff:** Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Jessica Causey, and Cheryl Walters.

### **Approval of Minutes**

Upon the motion of Representative Crimm and a second by Representative Linder, the minutes of the June 19, 2013 meeting were approved.

### **Consideration of Referred Administrative Regulation**

The committee considered referred Administrative Regulation 815 KAR 7:125, which establishes the basic mandatory uniform statewide code provisions relating to construction of one and two family dwellings and townhouses. Senator Bowen stated that a written report of the review will be submitted to the LRC.

### **Discussion of the Local Option Sales Tax**

Mr. Richard Dobson, Executive Director of the Department of Revenue's Office of Sales and Excise Taxes, explained the Streamlined Sales and Use Tax Agreement (SSUTA). SSUTA is a nationwide effort by 43 states, various local governments and members of the business community to develop measures to design, test, and implement a system that radically simplifies sales and use tax collection and administration by retailers and states. The Streamlined Sales Tax (SST) governing board administers SSUTA. The agreement became effective on October 1, 2005. 2001 HB 367 authorized Kentucky to participate in the SST project. 2003 legislation enabled conformity with SSUTA. Tax laws were refined to conform with SSUTA between 2005 and 2013. The first SST collection in Kentucky was in 2005. Since 2005, Kentucky has received \$106.3 million in payments from SST vendors. In FY 2013, over 1,000 SST filers sent more than \$20.7 million to Kentucky.

Regarding online sales and sales tax, 49.5 percent of consumers buy less merchandise online than in stores, 26.4 percent buy more online than in stores, and 24.1 percent buy the same amount

online and in stores.

The agreement sets out requirements for administering the tax. The state must collect the tax. Notifications must be sent out for rate changes and boundary changes within a set time before the change takes effect. Rates and bases must be uniform in each taxing jurisdiction. Caps and thresholds cannot be used—such as establishing a maximum amount of tax that can be applied to a single purchase.

On May 6, 2013, the United States Senate passed the Marketplace Fairness Act (MFA) of 2013. The MFA of 2013 grants certain states the authority to require remote sellers to collect or remit sales and use taxes on sales to the state. The MFA of 2013 has been assigned to the House Judiciary Committee and the chairman is expected to announce House improvements to the Senate bill.

LaRue County Judge/Executive Tommy Turner said that the Kentucky Association of Counties endorses legislation supporting the local option sales tax. The local option sales tax would only involve the particular community which desires to enact it, which can be a particular city or an entire county. The citizens would, by election, choose to enact the provision. A sales tax with a maximum level of one percent would be collected as current sales taxes are collected. It is difficult to imagine a process that exemplifies democracy more than a local option. The citizens become intimately involved in the direction and growth of their community. While elected officials help provide vision, administration, and management, each individual citizen's voice can be heard.

Some may view the local option sales tax as only a large city proposal that could only benefit Louisville, Lexington, and a small number of other cities in Kentucky. But it is much more encompassing, and the figures that have been generated for each county shows the tremendous potential each community holds. The local option sales tax is driven by those who live in a community, invest in the community, and make it stronger, thereby making all of Kentucky gain.

Lexington-Fayette Urban-County Government Mayor Jim Gray asked that the legislature allow citizens to vote and thus allow taxpayers a voice in whether they want the local option sales tax. The state cannot today afford to fund all local government needs. That's why cities and counties need to increase their revenues, but within limits. The tax would be for specific projects and then would sunset. The interest in the local option sales tax is creating jobs. Today, jobs go where the people are—where the people want to be and where the talent is attracted, which is why quality of life and place is important. The local option sales tax can benefit everyone and enjoys bipartisan support.

Louisville Metro Government Mayor Greg Fischer said that Kentucky can remain economically competitive in the 21<sup>st</sup> century by investing in its people and



in its built environment. Oklahoma City invested \$2 billion in capital projects and infrastructure using a local option sales tax. About \$5 billion in private investment followed. Jacksonville, Florida built a new library, equestrian center, and preservation project, and made road improvements with a local option sales tax. The local option sales tax is not just for large communities. Norton, Kansas (population 2,908) built a new city pool with one.

Revenue tools currently available to Kentucky local governments are real and personal property taxes, special ad valorem taxes, occupational and business taxes, and insurance premium taxes. Kentucky needs options. The general fund has few new dollars. The three major components of employee compensation—pension, health insurance, and collective bargaining agreement wages—have cumulatively outpaced general fund revenue growth. There are very limited dollars for capital investments. Every locality in the Commonwealth is grappling with these challenges.

Local option sales taxes are common, which are collected in 37 states. All of Kentucky's contiguous states except Indiana have this option. Virginia has a one percent local sales tax but no referendum is required. The tax has citizen input and is temporary. The local option sales tax would improve Kentucky's quality of place to catch up with its competitors making Kentucky a place appealing for investment so our kids and grandkids choose to live and work here.

Citizen input is key in determining projects. Most communities using local option taxes engage their citizens through online input forms and community meetings. After a temporary local option sales tax is passed, a citizen advisory and oversight process is established to ensure those projects are moving forward appropriately.

Looking at local sales figures, the money a sales tax could bring in is considerable.

Food, medicine, residential utilities, and automobiles would be exempt from the local option tax. In order for the temporary local option sales tax to become a reality, citizens must be educated and informed, legislation must be passed, the Constitution must be amended, and localities must vote.

There is broad, bi-partisan support for the local option sales tax and endorsed by Republicans, Democrats, Independents, Governor Beshear, Kentucky League of Cities, Kentucky Association of Counties, the Metropolitan Alliance for Growth, which includes Louisville, Lexington, Northern Kentucky, Warren County, Daviess County, and Hardin County, media, and many business and civic leaders. Ballot initiatives are often successful because the citizens know where their money will go. The local option sales tax was recommended by two state study groups: the 2006 Task Force on Taxation and the 2012 Blue Ribbon

Commission on Tax Reform. A poll conducted by the *Courier-Journal* showed 72 percent of the people when asked if they should have the right to vote on local projects, said "yes," 19 percent said "no," and nine percent were undecided.

The proposed ballot language would be as follows: "Are you in favor of amending the Constitution of Kentucky to allow cities, counties, consolidated local governments, urban-county governments, and other forms of merged city-county governments to submit to voters the choice of funding specifically identified projects with clearly defined costs, by the levy of a local sales and use tax, at a rate not to exceed one percent, the proceeds of which shall be deposited in a separate trust fund, to be used only for the specifically identified projects for a period of time approved by the voters?"

Daviess County Judge/Executive Al Mattingly spoke in support of the local option sales tax. The City of Owensboro and Daviess County are growing due to the citizens voting for a tax. By passing that tax, it was simply a third of a cent increase on the occupational tax. The City of Owensboro allowed the citizens to decide how that money was going to be spent. The local option sales tax is the way to reconnect local people with local government.

Mr. Jason Bailey, Executive Director of the Kentucky Center for Economic Policy, told the committee that local governments have challenges generating the revenue they need based on constitutional and statutory limits, property tax limits, limits on types of taxes local governments can levy, and limits on general revenue sharing. There is also the lack, in some communities, of a commercial and business base needed to make occupational and sales taxes viable, and loss of taxes due to industry declines. Kentucky's property taxes are low. In 2009-2010, there was \$21 in state and local property tax revenue per \$1,000 in state personal income, which is 42 percent lower than the national average of \$36, and ranks Kentucky 45<sup>th</sup> among states. Reliance on property tax is declining in Kentucky. Real property tax rates in Louisville and Jefferson County have fallen dramatically. There has been a 35 percent decline in Louisville and a 42 percent decline in Jefferson County since 1978. If Louisville and Jefferson County had just maintained the tax rate, it would have nearly \$60 to 70 million more in revenues.

The sales tax is a regressive tax and even with exclusions, the poor pay more in sales and excise taxes as a percent of their income than others. The sales tax base is eroding in part because services are not included in the sales tax base. Other challenges with sales taxes in general include: that the tax is not deductible against federal taxes like an occupational tax and property tax; limited growth of sales tax revenue because it is not

modernized; loss of state sales tax revenue because of border and consumption effects; it is not a solution for localities without a sufficient commercial or retail base; and has a problem with earmarking for specific projects.

Some context is needed to consider the local option sales tax. One thing is that the Blue Ribbon Tax Commission recommended the sales tax, but as a part of tax modernization and comprehensive tax reform which included sales taxes applying to services and a refundable state earned income tax credit to help offset the impact of a regressive sales tax on lower income people. Also, a proposal for the tax should not be seen as a swap or an offset or a reduction for another tax such as an occupational tax, as this may be seen as a shifting of responsibility from those who are most able to pay to those who are least able to pay.

Considerations for local tax reform would be: (1) a broad view of the issue of local taxation as well as state taxation should be taken; (2) tax fairness and revenue sustainability must be part of the conversation; a need to address the decline in the property tax; and (3) greater scrutiny and disclosure of tax breaks.

Senator Bowen said he was struck by the comment that the local optional sales tax is a very democratic process and extends to the citizens of local communities the opportunity to exercise that democratic process. Unfortunately, most of the options that are voted on are tax increases. Rarely seen is the opportunity extended to citizens to vote on eliminating or reducing a tax.

In response to a question from Senator McDaniel, Mayor Fischer replied that Oklahoma City has been used as the model and commented there were no cost overruns with their projects. In other words, if a project is a \$40 million project and cost overruns are expected, it needs to be redesigned to come in at \$40 million. Oklahoma City does not actually start the project until all of the money is raised.

In response to a question from Representative Denham, Mayor Fischer stated that, using Oklahoma City as the model, the citizens select about five to seven different projects in the community that have cross-demographic and cross-geographic appeal and put them on the ballot together. Some cities start bonding immediately and use the annual tax receipts for debt service. Other communities wait until 100 percent of the projects are funded before they even start.

In response to another question from Representative Denham, Mr. Bailey said that a small percentage of government raise their tax rates beyond the four percent level. Four percent may be a reasonable long term view, but when economies are doing well, it does not allow communities to benefit on the up-side and does harm on the down side.

In response to a final question from Representative Denham, Mr. Dobson said that in making a determination of whether

or not to join the sales tax agreement, a state must evaluate the manner in which the agreement will affect their tax revenues positively or negatively.

Representative Lee commented that he has concerns about government getting more money. Voters are suspicious of government. The suspicion extends to government money going to private businesses. In response to a question from Representative Lee, Mr. Dobson replied that the market place fairness act would not create another federal bureaucracy. It just allows states to collect the tax on behalf of the local governments levying the tax on remote vendors. The streamlined sales tax agreement is a state organization. One of the key principals of the marketplace fairness act, as well as the streamlined sales tax agreement is state sovereignty. Mayor Fischer referred back to the poll he mentioned earlier and stated that the next question asked whether the person would vote for the project. He stated that 17 percent said "yes," 16 percent said "no," and 67 percent said their response would depend on the actual project. The object is to get the question on the ballot. People can always vote against it. Mayor Fischer noted that the length of Oklahoma's tax was due to successive five year approvals.

In response to a question from Senator Seum, Mayor Fischer said the entire one percent local option sales tax would be for the entire county; the tax is not "stackable."

Senator McGarvey commented that by Mayor Gray and Mayor Fischer appearing before the committee together sets an example of people working across regional and political differences for the betterment of Kentucky. There is a new tone in Frankfort where the General Assembly is trying to work together to get things done, to better Kentucky. In response to a statement seeking clarification from Senator McGarvey, Mayor Fischer stated that Senator McGarvey's understanding of the proposed amendment was correct in that the General Assembly is being asked to vote to give the citizens the right to vote.

In response to a question from Representative Adams, Mayor Fischer said that Louisville Metro Government's overall tax burden in comparison with other cities' rankings would not shift due to having a local option sales tax. This proposal would be separate from any other tax reform legislation unless it was included in a reform package.

In response to a question from Representative Crimm, Mayor Fischer said the one percent local option sales tax, as it is anticipated at present, would be used only for capital projects.

Senator Thayer commented that he has never had a constituent come to him and say they wanted to pay more taxes. Taxes lessen the ability of citizens to participate in a market-based economy. In response to a question from Senator Thayer as to the concern that more of a tax burden will be added to the citizens of

Louisville, Mayor Fischer said he has not heard that as being an objection.

Senator Thayer noted that a right to work law could save project costs and free more money to make Kentucky more attractive to investment, and subsequently realize more money to the government.

Representative Riggs commented that he is concerned about people's understanding of the local option sales tax. The total amount can be a fraction of a cent. The media has not reported that it is a temporary tax. The local option sales tax is an opportunity to keep money locally for possible tourism as was done in Tennessee. It is an opportunity for entrepreneurship.

In response to a question from Representative Shell, Representative Riggs answered that the local option sales tax would not be considered a special taxing district. The right to collect is given to the local government.

Senator Bowen added that he thought, conceptually, a local option sales tax is a fair process, but that wages have not kept up with inflation. To add another tax to people seeing their paychecks being eroded by inflation, taxes, and other issues that reduce their take home pay is of concern.

There being no further business, the meeting was adjourned at 12:05 p.m.

## **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT**

Minutes of the 4th Meeting  
of the 2013 Interim  
October 3, 2013

### **Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, October 3, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Joe Bowen, Chris Girdler, Bob Leeper, John Schickel, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Tim Moore, Marie Rader, John Short, Fitz Steele, and Jim Stewart III.

Guests: Keith Smith, Office of the Reclamation Guaranty Fund; Dr. Len Peters, John Lyons, and Mike Haynes, Energy and Environment Cabinet.

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

A quorum being present, the chair asked for a motion to approve the minutes for the September 5, 2013 meeting. After a motion and a second, the minutes were approved.

### **Update on the establishment and administration of the Kentucky Reclamation Guaranty Fund pursuant to HB 66**

Keith Smith, Executive Director of the Office of the Reclamation Guaranty Fund, explained the circumstances that led to the passage of HB 66 that established the new bonding fund and the steps his office had taken to implement its requirements. In January 2011, a federal Office of Surface Mining (OSM) report concluded that Kentucky bonds were not always sufficient to complete mining reclamation in the event of forfeiture. In March 2012, an OSM letter--under 30 CFR Part 733--required Kentucky to take immediate and long-term actions to increase bond amounts and ensure the solvency of the bonding fund. Accordingly, the Energy and Environment Cabinet promulgated emergency administrative regulations to increase minimum bond amounts, rates per acre, and supplemental insurance, which resulted in bond amounts increasing on average by 60 percent. Nevertheless, OSM found the new protocols insufficient to satisfy the 733 letter, so an actuarial study was conducted in preparation of establishing a mandatory pool to provide a backstop for individual bonds.

During the 2013 Regular Session, the General Assembly passed HB 66 to establish the Kentucky Reclamation Guaranty Fund (KRGF), which is a mandatory bond pool designed to satisfy the requirements of the 733 letter by adequately covering the costs of reclamation to the cabinet when permit-specific bonds are forfeited. HB 66 abolished the previous voluntary bond pool and commission and established a new commission to administer the fund. The KRGF Commission consists of seven members appointed by the Governor, including the secretary of the cabinet and representatives from the coal, banking, and insurance industries. The commission is charged with a variety of monitoring and maintenance responsibilities and must report to both the Governor and the General Assembly annually.

As of July 1, 2013, all coal mining permittees became mandatory participants in the KRGF. On July 3, the commission promulgated new emergency administrative regulations to establish, among other things, new fees for fund participants. On August 1, the commission sent 307 assessments for start-up fees involving 1,118 permits, and had already received \$1,365,000 of the \$2,200,000 in total assessed fees. The 105 entities that had not yet responded to their fee assessments had been referred by the commission to a collection agency. The current total balance of the fund is \$25,048,000, which includes about \$23,000,000 rolled over from the previous voluntary bond pool that was abolished by HB 66.

In response to a question regarding the frequency of reclamation bond forfeitures, Mr. Smith said that in the last several years, there had been about 15-17 forfeitures per year. He further stated that the fee structure and all of the new fee amounts established by HB 66 and the administrative regulations promulgated

under it arose from the actuarial report that was done during the summer of 2012. The actuarial report based its fee prescriptions on the current amount of outstanding bonds in the state and not the current amount of outstanding liability facing the cabinet due to bond forfeiture.

In response to a question about whether future bonding amounts would be affected by so many small coal producers ceasing operations, Mr. Smith said that he is concerned that bond rates might have to increase on the surviving producers. However, he hoped that as companies ceased mining, they would still perform their required reclamation so that no new reclamation liability accrued to the cabinet. He would not know the answer to that question until the commission starts preparing the actuarial reports on an annual basis.

### **Discussion of newly-proposed U.S. Environmental Protection Agency (EPA) regulations that limit greenhouse gas emissions from new sources**

Dr. Len Peters, Secretary for the Energy and Environment Cabinet, and John Lyons, Assistant Secretary for Climate Policy, discussed new details of the EPA's proposed greenhouse gas rules that had emerged since Secretary Peters had last addressed the committee in July. On September 20, 2013, EPA proposed revised New Source Performance Standards (NSPS) for greenhouse gas emissions from new stationary sources, and by June 1, 2014, EPA will propose revised NSPS for existing and modified sources as well. The final rules for both existing and new sources will be issued on June 1, 2015. For new natural gas combined cycle units, the proposed carbon dioxide (CO2) standard will be 1,000 lb CO2/MWh for units over 850 mmBTU/hr and 1,100 lb CO2 MWh for any smaller units. For new fossil fuel-fired (including coal-fired) utility boilers and integrated gas combined cycle units, the proposed CO2 standard will be 1,100 lb CO2/MWh over a 12-operating month period or 1,000-1,050 lb CO2/MWh over an 84-operating month period. The previously proposed standard was 1,000 lb CO2/MWh regardless of fuel source. These revisions create different proposed standards for new natural gas plants than for coal and other fossil fuel plants, but the differences are basically negligible. Since the current average CO2 emissions for existing coal-fired plants in the state is about 1,950 lb CO2/MWh, new coal-fired plants will still not be able to meet this new proposed CO2 standard unless the facilities are capable of carbon capture and storage.

With regard to the CO2 standards for existing sources, the cabinet plans to engage in several initiatives to urge the EPA to incorporate flexibility into the rule for states that are heavily coal-reliant like Kentucky. The cabinet will advocate for a mass emissions reduction plan rather than a standard of performance specific to a particular unit. The cabinet also

plans to urge EPA to consider a system-wide approach to emissions reductions that include generation, transmission, and consumption instead of focusing only on reductions at the plant. The cabinet feels that total system-wide CO2 reductions will be much more achievable than individual reductions for existing coal-fired plants and will be much less onerous for utilities and residents. A system-wide focus will allow Kentucky to continue to avail itself of its abundant natural resources while still accomplishing significant emissions reductions.

In response to a question regarding whether EPA is truly engaged in working with the states to help develop and achieve these CO2 standards, Secretary Peters said that only time will tell. However, he believes that the new EPA administrator seems to have a fresh view and is intent on building consensus on what will be best for the United States as a whole and not just one sector.

In response to a question about whether the cabinet was working with other similarly-situated states to influence the impending proposed greenhouse gas rule for existing sources, Mr. Lyons said that Kentucky has taken a leadership role in educating and organizing similar states to urge EPA to adopt system-wide greenhouse gas reduction targets.

In response to a question regarding the need for the greenhouse gas regulations and the process by which they were being adopted, Secretary Peters said that coal was being burned cleaner than ever, but that the proposed greenhouse gas rules were seeking to control a new pollutant that had not yet been regulated. He also stated that these rules were being proposed through the executive branch without input from the US Congress.

In response to a question regarding the cost of achieving the greenhouse gas reductions required by the new proposed standards, Secretary Peters said that meeting the new standards for coal-fired plants would require carbon capture and storage, which would increase the cost of power from these plants by 40-80 percent. The climate benefits to be gained would be the slowing or stopping of the warming trend that has been identified in the latest climate reports, including the United Nation's latest report from its Intergovernmental Panel on Climate Change.

In response to a question regarding the consequences of not abiding by the new proposed greenhouse gas rules and pursuing litigation to fight the rules in court, Secretary Peters said that there are legal options that the cabinet has pursued and will continue to pursue in the future. The underlying legitimacy of EPA regulation of greenhouse gas emissions has been considered and approved by the US Supreme Court, so the question becomes whether Kentuckians will be best served by being active participants in the formulation of the rules. The cabinet feels that it will be better for Kentucky in the



long run to work within the system to try to reach an outcome that is most favorable to Kentucky's interests.

In response to a question regarding how greenhouse gas emissions were being reduced in other countries, Mr. Lyons said that Europe had been following a similar path as the United States, but that developing countries were actually becoming more dependent on carbon-intensive sources of energy production.

In response to a question about why people previously believed that the earth was cooling and now the belief is that it is warming, Secretary Peters said that atmospheric concentrations of CO2 have always been on the rise, but that uncontrolled pollutants in the atmosphere like particulate matter had blocked incoming radiation and masked the warming effect. Now that those other pollutants are being controlled, the warming effect from increased atmospheric concentrations of CO2 is becoming more pronounced.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 3rd Meeting  
of the 2013 Interim  
September 25, 2013

### Call to Order and Roll Call

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, September 25, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Walter Blevins Jr., Ernie Harris, Stan Humphries, Christian McDaniel, Morgan McGarvey, Gerald Neal, R. J. Palmer II, Albert Robinson, and Damon Thayer; Representatives Kevin Bratcher, Dwight Butler, John Carney, Larry Clark, Leslie Combs, Will Coursey, Joseph Fischer, Derrick Graham, Mike Harmon, Kenny Imes, James Kay, Jimmie Lee, Mary Lou Marzian, David Meade, Brad Montell, Sannie Overly, Tanya Pullin, Jody Richards, Tom Riner, Steven Rudy, Kevin Sinnette, Diane St. Onge, Tommy Thompson, and Ken Upchurch.

Guests: Joe Cowles and Sharron Burton, Personnel Cabinet.

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

### Approval of Minutes

The minutes of the July 24 meeting were approved without objection, upon motion by Representative Rudy.

### Subcommittee Report

Senator Bowen, Co-chair of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, read the report of the Task Force's September 24 meeting. The report was adopted without objection, upon motion

by Representative Yonts.

### Kentucky Employees' Health Plan (KEHP)

Guest speakers from the Personnel Cabinet were Joe Cowles, Commissioner, Department of Employee Insurance, and Sharron Burton, Deputy Executive Director, Office of Legal Services. They gave a comprehensive overview of KEHP for the 2014 plan year, accompanied by a PowerPoint presentation.

Mr. Cowles said the themes for plan year 2014 are wellness and consumerism. He has been working with his counterparts in Indiana, Georgia, Tennessee and Missouri for about 16 months to learn about their plans' wellness opportunities. Ninety-eight percent of Indiana's public employees are enrolled in a consumer driven health plan.

Loss of grandfathered status under the Affordable Care Act in 2014 is responsible for some of the new plan year changes. There was little change in 2013 due to retaining grandfathered status for the plan design elements and employee/member contributions. In 2014 wellness is being emphasized through the HumanaVitality program. The Compass ChoiceRewards pilot program has been introduced to incentivize members to shop for medical procedures and diagnostic tests and subsequently share in any savings from their choices.

In total, Kentucky has received \$95 million from ERRP (Early Retiree Reinsurance Program), a reimbursement program of national health care reform. About 50,000 early retirees are KEHP members, and Kentucky was the seventh largest recipient of ERRP funds. By law, the funds are used to reduce benefit or premium cost increases. Kentucky's remaining funds will roll over to the 2014 plan year and must be utilized by December 31, 2014, when the program ends.

The employer contribution will increase two percent for 2014, while annual trend projections were 8-9 percent. The new plan year focuses on shared employee and KEHP responsibility and accountability through greater price transparency, clearer choices for employees, enhanced health improvement programs and services, and accountability for health through meaningful incentives and consequences for employee actions and outcomes. Premiums will slightly increase for some plan options and decrease for others. Premiums will be improved for many dependent tiers. The plan designs reflect some of the mandates and benefit enhancements of health care reform, such as preventive services at no cost to members. Wellness offerings are expanded through the HumanaHealth and Compass ChoiceRewards programs. The nonsmoking premium incentive increased and expanded to include all tobacco products; it formerly applied only to the plan holder but in 2014 will also apply to covered spouses and dependents age 18 and older.

Commissioner Cowles said it is his and KEHP's goal to improve health status in the Commonwealth. Kentucky ranks 45<sup>th</sup> among all states in major health status categories. Eighty percent of health care costs derive from chronic health conditions like diabetes, obesity, and heart disease. Kentucky has a lower life expectancy at birth than the South and the nation as a whole and has a higher percentage of overweight or obese adults and children, adult smokers, and adults reporting asthma prevalence and poor mental health. These are the challenges faced by KEHP, which has 270,000 plan members. Approximately 160,000 of the members are primary plan holders.

The LivingWell Promise that is being integrated into the 2014 plan is patterned after the successful Partnership Promise benefit design implemented by Tennessee in 2011. The state of Georgia began offering a similar benefit design in 2012 with its Wellness Promise. Data shows that in Tennessee the wellness promise concept resulted in a reduction of chronic disease and improved health among plan members.

The two LivingWell plan options that will be offered in 2014 require the plan holder to make a LivingWell Promise. These plans offer better benefits in the form of lower member coinsurance, lower deductibles, and lower out-of-pocket maximums. By choosing a LivingWell plan, members agree to complete an online HumanaVitality Health Assessment between January 1 and May 1, 2014, and to keep contact information current. Only the primary plan holder is required to complete the LivingWell Promise. Spouses and dependents covered under the plan will not be required to complete the health assessment. However, with the cross-reference payment option, both plan holder and spouse must fulfill the LivingWell Promise.

Plan members who elect the LivingWell Promise will receive reminders from KEHP to complete the health assessment. Failure to fulfill the LivingWell Promise in 2014 will make the plan holder ineligible for LivingWell plan options in 2015. If not fulfilled because of a physical or mental health condition, KEHP will work with the plan member to develop an alternative way to qualify for a LivingWell plan option. The HumanaVitality Health Assessment consists of a series of questions about health habits and takes approximately 15 minutes to complete. Based on responses to the questions, the plan member will be provided with a Vitality Age and goals for living a healthier lifestyle but is not required to meet the goals suggested by the health assessment. KEHP will not collect personal health information from the health assessment, and any information disclosed during the assessment will be kept confidential. KEHP may receive aggregate data from HumanaVitality based on the assessments completed by all members.

Open enrollment for 2014 is available October 1-31 and is an active, mandatory enrollment. Everyone must elect a new health insurance plan option or waive coverage. Anyone who does not make an election or waive coverage by October 31 will be automatically enrolled in the Standard CDHP (consumer-driven health plan), single coverage plan option. Benefit fairs will be held at 17 locations beginning October 1. Free flu shots and health screenings will be offered, and all locations except Jefferson County will have an enrollment kiosk.

Based on a study of state and local governments by the Kaiser Family Foundation, the employer contribution by the Commonwealth of Kentucky for individual employee coverage is 91 percent, compared to a benchmark of 87 percent suggested by the comparator group. The employer contribution for family coverage is 79 percent, compared to the benchmark of 76 percent. Four plan options are available for 2014. All plans cover in-network preventive care at 100 percent. There is no comparative plan for the 2013 Capitol Choice plan, which is being replaced by the Standard CDHP plan. Benefits analyzers will be mailed soon to all members in letter format.

The LivingWell CDHP—similar to the 2013 Maximum Choice plan—requires the LivingWell Promise and has the highest actuarial value of the four plans. It features an employer-funded HRA (health reimbursement account) of \$500 for single coverage and \$1,000 for couple, parent-plus, and family coverage. HRA funds can be used to reduce the deductible, and unused funds roll over to the next plan year. The plan pays 85 percent coinsurance; plan members pay 15 percent.

The LivingWell PPO (preferred provider organization) plan has the second highest actuarial value and requires the LivingWell Promise. It is similar to Optimum PPO, which had the highest membership in 2013. The plan features copays for most medical services and all pharmacy services. Coinsurance is 80 percent paid by the plan and 20 percent by members.

The Standard PPO plan does not require a LivingWell Promise. It is similar to the 2013 Standard PPO and features copays for some medical services. Pharmacy copays are subject to a minimum of \$10 and a maximum of \$25. Coinsurance percentages are 70 percent paid by plan/30 percent paid by member.

Standard CDHP has the lowest monthly employee premium—\$12.98 for single, non-tobacco users. It does not require a LivingWell Promise. It includes an employer-funded HRA of \$250 for single coverage and \$500 for couple, parent-plus, and family coverage. Coinsurance percentages are 70 percent paid by plan/30 percent paid by member.

Employee monthly premiums for single coverage for the LivingWell CDHP and LivingWell PPO increased



about \$17.00, compared to their 2013 counterparts. Parent-plus, couple, and family premiums remain flat or are reduced. The employee contribution for family coverage in LivingWell CDHP—the highest actuarial value plan—is \$337.98. The LivingWell PPO employee contribution for family coverage decreased slightly—from \$650 in 2013 to \$642.98 for 2014. The biggest premium increases in 2014 were for family cross-reference in the LivingWell plans; however, those premiums still reflect a significant discount when compared to full family coverage. Cross-reference members enrolled in the 2013 Optimum PPO plan who are willing to choose LivingWell CDHP in 2014 will pay approximately the same premium as in 2013. Based on health policy and in order to incentivize wellness and consumer-driven health care, premiums for LivingWell CDHP are priced no higher than for the Standard PPO. As a benefit enhancement for 2014, medical and prescription drug costs in the CDHP plans, and medical copays in the PPO plans, can be counted toward the deductible.

Mr. Cowles concluded the slide presentation with a review of the benefit grid and discussion of the HumanaHealth Nurse Support and the Compass ChoiceRewards programs. He said that KEHP has been enrolling as many as 2,500 members per month in the nurse support programs and that they have had a significant positive impact.

Responding to questions from Senator Bowen, Mr. Cowles said that ERRP funding was established by the Affordable Care Act. As to 2014 premiums, the Commonwealth budget provided for a two percent increase in the employer contribution. Some employee premiums increased and some decreased, but the overall increase in employee premiums was less than two percent.

Representative Marzian expressed approval for the health plan's wellness and consumer-driven approach and asked whether plan holders will have access to a detailed list of covered preventive services. Mr. Cowles said the 2014 health insurance information on the Personnel Cabinet web site includes a list in the Frequently Asked Questions section.

When asked by Representative Carney, Mr. Cowles said that unused HRA funds from the 2013 plan year will roll over to 2014. Representative Carney said it is imperative to find a way to involve more physical activity in schools. In addition, the issue of emergency room costs incurred by the uninsured needs to be addressed.

Representative Riner asked whether KEHP is open to suggestions for questions to be included on the health assessment. Mr. Cowles said he is not in charge of the questions because the health assessment is a HumanaVitality product. A demo of the health assessment questions can be viewed on the Personnel Cabinet web site. The optional biometric screening is

a mini-physical but is not required by the health assessment.

Responding to questions from Representative Thompson, Ms. Burton discussed essential health benefits covered under the Affordable Care Act and said KEHP covers the majority of those, except for pediatric dental and vision benefits. Mr. Cowles said the loss of grandfathered status in 2014 required benefit changes that added cost to the plans. Coverage of preventive care at 100 percent was the primary new benefit enhancement. Other enhancements include coverage of clinical trials and the allowance of certain costs to be attributed to the maximum out of pocket. Representative Thompson lauded the fact that the overall premium increase for employees is less than two percent.

When Representative Graham expressed concern about the premium increases and the impact on families, Mr. Cowles said he believes the 2014 plans are the best that KEHP could afford to offer, considering the budgeted amount available, health care cost trends, and additional costs related to health care reform. Hopefully, the wellness initiative will lead to a healthier pool of members, help reduce or level out costs, sustain benefits for a longer period of time, and lead to a healthier pool of employees transferring into the retiree health plans.

Representative Graham suggested that KEHP consider rewarding those who fulfill the LivingWell Promise with a reduced premium the following year. Mr. Cowles said he is open to the idea. Premium discounts are offered by some states, and Toyota is planning to offer a discount next year. He pointed out that KEHP's wellness program already provides monetary incentives for achievement of certain goals.

Representative Lee said, based on the phone calls he has received, employees are confused about the new plans and unhappy about the premium increases. He asked whether factors other than claims cost and health care reform mandates—such as increased management costs by Humana—led to the higher deductibles, copays, and out-of-pocket maximums. Mr. Cowles said that TPA (third party administrator) costs, which fall within his purview, usually remain flat or may increase less than one percent each year. With expiration of many drug patents, KEHP was actually able to reduce costs under its contract with Express Scripts. Claims costs usually increase seven to nine percent—or maybe five percent in a good year. Data for 2013 through June 30 indicates claims increased about five or six percent. Without the benefit of ERRP dollars in 2014, KEHP would have faced more difficult cost decisions.

Mr. Cowles said the KEHP plan is fiscally sound with no intent to build surplus funds. He empathizes with employees' concern about premium increases. KEHP's goal is to create the best plan possible with the funds that are available. He added that normally less

than two-thirds of plan members meet their deductible, and less than two percent reach the maximum out of pocket.

#### **Adjournment**

Senator Bowen thanked the speakers and reminded committee members that Mr. Cowles had offered to meet with them individually if they have additional questions. With business concluded, the meeting adjourned at 2:36 p.m.

### **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

#### **Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs**

##### **Minutes of the 2nd Meeting of the 2013 Interim**

September 24, 2013

#### **Call to Order and Roll Call**

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, September 24, 2013, 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., Ernie Harris, Stan Humphries, Christian McDaniel, Gerald A. Neal, R.J. Palmer II, Albert Robinson, and Dan “Malano” Seum; Representatives Kevin D. Bratcher, Larry Clark, Joseph M. Fischer, Mike Harmon, Mary Lou Marzian, and Sannie Overly.

Guests: Julie Barr, Oldham County Clerk & President, Kentucky County Clerk's Association; James Lewis, Leslie County Clerk & Elections Committee Chair, Kentucky County Clerk's Association.

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

#### **Approval of Minutes**

The minutes of the July 23, 2013 meeting were approved without objection, upon motion by Representative Harmon and second by Representative Marzian.

#### **Local Option Elections on Primary or Regular Election Days**

The Oldham County Clerk and the Leslie County Clerk discussed the date of local option elections. The Oldham County Clerk gave several examples of the costs of recent local option elections in Oldham County, with one example of nearly \$2,500.00 in costs to the county for a total of 56 votes cast in the election. Consequently, both Clerks advocated for a cost-saving statutory change that would require local option elections to be held on the same day as a primary or regular election.

A bill was filed on the issue the last two sessions, and a copy of the latest version from the 2013 Regular Session was in the members' folders. The Leslie County Clerk suggested that the 2013 bill could be improved by amending the language to also accommodate having

local option elections in years in which no regular elections are scheduled.

Several members posed questions and voiced their opinions and concerns. A primary concern among a couple of members was that having local option elections on the same day as a primary or regular election has the potential of making the candidate elections become merely a referendum on the local option question.

A tape of this meeting can be found in the Legislative Research Commission library.

The business concluded, and the meeting was adjourned at 1:20 p.m.

### **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

#### **Minutes of the 4th Meeting of the 2013 Interim**

October 1, 2013

#### **Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 1, 2013, at 9:00 AM, at Pine Mountain State Resort Park. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. Minutes from the September 4, 2013 meeting were approved and Administrative Regulation 601 KAR 1:147 was reviewed.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Jimmy Higdon, Ray S. Jones II, Morgan McGarvey, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives Leslie Combs, Tim Couch, Keith Hall, Kenny Imes, Terry Mills, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Fitz Steele, Jim Stewart III, and Addia Wuchner.

Guests: Stephen Eastin, Park Manager, Pine Mountain State Resort Park; John Burke, Cumberland Gap Tunnel Authority; Mike Hancock, Secretary, Kentucky Transportation Cabinet; Ron Rigney, Director, Davison of Program Management; and Nancy Albright, Executive Director, Office of Project Delivery and Presentation.

LRC Staff: John Snyder, Dana Fugazzi, and Christina Williams.

#### **Welcome and opening remarks**

Stephen Eastin, Park Manager, Pine Mountain State Resort Park, welcomed members of the committee and guests to the Park. Pine Mountain is the oldest State Park in Kentucky, having been established in 1924. He said that Pine Mountain has much to offer visitors and he highlighted several upcoming events at the park.

Representative Nelson thanked Hinkle Contracting for sponsoring the committee breakfast, and recognized Kevin Houston, Area Manager for Hinkle, who was in attendance.

#### **Discussion of Appalachian Highway funding under MAP-21**



Mike Hancock, Secretary, Kentucky Transportation Cabinet, and Ron Rigney, Director, Division of Program Management, Transportation Cabinet, began a discussion of Appalachian Highway funding under MAP-2, the most current federal highway funding bill.

Mr. Rigney stated Congress authorized the construction of the Appalachian Development Highway System (ADHS) in the Appalachian Development Act of 1965. The ADHS was designed to generate economic development in previously isolated areas, supplement the interstate system, and provide access to areas within the region, as well as to markets in the rest of the nation. The ADHS is a system of designated corridors and roadways within the 13 states that make up the Appalachian Region. The 13 states that the ADHS system runs through are New York, Pennsylvania, Maryland, Ohio, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, and Mississippi. Kentucky is in the Central Sub-region, one of five sub-regions.

The ADHS is authorized at 3,090 miles. By the end of FY 2012, 2,494.3 miles were under construction. Many of the remaining miles will be among the most expensive to build. Completion of the ADHS remains a top priority for the Appalachian Regional Commission (ARC).

Mr. Rigney stated no new funds are authorized specifically for the ADHS Program in MAP-21, but funds authorized in earlier acts remain available until expended. In Kentucky there are \$35 million in remaining Appalachian Development Highway Program (ADHP) funds. However, to spur the completion of the designated ADHS, MAP-21 provides that the federal share is 100 percent (no matching funds are required).

Kentucky has eight corridors on the ADHS, consisting of 575 miles of roadway, and has completed six of the eight corridors with 546 miles of Kentucky's ADHS completed. Kentucky's two remaining ADHS corridors are US 460 in Pike County and US 119 in Letcher County.

The estimated construction cost to complete the US 460 ADHS corridor in Pike County is approximately \$150 million. The estimated construction cost to complete the US 119 ADHS corridor in Letcher County is approximately \$460 million. Mr. Rigney stated the Kentucky Transportation Cabinet (KYTC) intends to complete the US 460 ADHS corridor to Virginia and the US 119 ADHS corridor in Letcher County.

In response to a question asked by Chairman Collins, Secretary Hancock stated the cabinet will continue with the planned course of action to use approximately \$49 million per year in National Highway Performance funding to work toward completion of both the US 460 and US 119 corridors. This amount

equals the previous amount of ADHP funding when it was a separate category.

In response to a question asked by Representative Steele concerning US 119 in Harlan County, Secretary Hancock stated the Appalachian Highway Program began in 1965, and as it began a number of corridors were identified as being part of the system, but funding was only set aside in certain amounts for certain things. As far as the Appalachian Highway funds and the process to date, only the two corridors (US 119 in Letcher County and US 460 in Pike County) are a part of the program. Other routes on the Appalachian Highway System remain eligible for the National Highway Performance Program (NHPP) funding.

In response to a question asked by Representative Pullin, Secretary Hancock stated the final two sections (US 119 in Letcher County and US 460 in Pike County) are some of the most expensive roads to construct, and typically that is why those roads end up being constructed last. All other needs are met, and then the extra expense is sought out to try to finish the high expense road projects. Secretary Hancock stated a mile of construction in the mountains can cost approximately \$20 million a mile in some areas.

In response to a question asked by Chairman Harris, Secretary Hancock stated the ADHP funds themselves can only be used for the construction of a new route, and if maintenance for another Appalachian highway route is needed, funds must be acquired from other sources to accomplish that.

In response to a question asked by Representative Nelson, Secretary Hancock stated Congress, in MAP-21, deemed that ADHP projects were eligible for the National Highway Performance Program (NHPP). If there was an ADHP eligible route, the Federal Government would allow that to be funded under NHPP. It is Secretary Hancock's decision to incorporate the eligible routes into the state's road plan.

In response to a question asked by Chairman Collins, Secretary Hancock stated trying to get the Federal delegation to include the Mountain Parkway in the Appalachian designation is irrelevant since there is no separate funding category for the ADHS roads going forward.

In response to a question asked by Chairman Collins regarding time of completion of US 460 in Pike County and US 119 in Letcher County, Secretary Hancock stated the highway plan has the completion of those projects spread out over the next few years. He stated for the US 460 corridor; the valley section should be under construction within the next year. Secretary Hancock stated \$49 million a year is allotted in the road plan for those projects and evaluations are being made on how to apply that money over time to complete the corridors. The goal of the completion of construction on US 460 is for it to be completed by the year 2017 or 2018, and the goal for US 119 is beyond

the year 2020.

In response to a question asked by Representative Imes concerning I-66, Secretary Hancock stated I-66 was a concept that at one point was envisioned extending from West Virginia into Kentucky, and then across Kentucky and exiting Kentucky to Illinois and Missouri. Studies have been done to indicate if I-66 were to ever be constructed the proper location for the interstate would be along the I-24 corridor as it exits into Illinois. He stated not only do studies indicate that placement, but Congressional actions say it must follow along the I-24 corridor. Secretary Hancock stated in Eastern Kentucky the I-66 corridor has envisioned being tied into KY-80 which would then run to I-75 to Somerset and tie into the Louie B. Nunn Parkway, and then extend into Western Kentucky. Funds for that corridor have been very hard to acquire. There has been some focus on areas around Somerset, and there is still preliminary work underway between Somerset and I-75. Beyond that, the funding has not materialized for I-66 in Kentucky. Secretary Hancock stated as the state of the Federal Highway Trust Fund is evaluated, and the difficulty that the country is having funding major projects, such as the I-66 corridor, the opportunity appears bleak that I-66 across Kentucky will ever materialize.

In response to a question asked by Representative Simpson concerning Pine Mountain being in the plan, Secretary Hancock stated Pine Mountain would be in the plan and the cabinet has projects that are identified in the highway plan today that will complete the valley floor section, between the south side of the mountain and Cumberland, just east of Harlan County. He stated that part of the project is under way, however, there are parts that will be done over the next few years. The eventual plan for Pine Mountain is to construct a tunnel through the mountain. The Pine Mountain Tunnel would be longer than the Cumberland Gap Tunnel.

In response to a question asked by Representative Simpson, Secretary Hancock estimated the total cost of the Pine Mountain Tunnel project to be \$450 million, which would include the valley floor sections, as well as the tunnel itself. He indicated \$450 million is just shy of the \$500 million that is needed for it to be considered a "mega project."

Representative Combs stated in order to get from one side of Letcher County to the other side, which is her district, she has to cross Pine Mountain sometimes as much as three times per day in order to meet her constituents needs. She indicated road work is being done, or will be done soon, on both sides of the mountain and eventually the Tunnel will be needed to complete the project.

#### **Kentucky Transportation Maintenance Activities**

Nancy Albright, Executive

Director, Office of Project Delivery and Presentation, began discussing Kentucky Transportation Maintenance Activities.

Ms. Albright stated the Kentucky Transportation Cabinet actively monitors how it spends funds on maintenance activities each year. She stated there is a pretty intensive program within the maintenance program itself that it conducts every year to measure how it spends resources regarding those activities. The target for each of those activities is 80 percent of the goal.

One maintenance activity the cabinet measures is ditch cleaning. Ditch cleaning is an important activity because the water is an enemy of the pavement, and in order to keep pavement in good condition, it must keep the water moving. In the previous 6 years, the cabinet has not met its benchmark on ditch cleaning. The cabinet is improving on ditch cleaning, but still has a long way to go.

Another maintenance activity the cabinet measures its performance on is how it handles trees on the right-of-way. The cabinet is not meeting its target. Particularly in Madisonville and Elizabethtown, the cabinet is having a hard time meeting its target because that area was the hardest hit from the 2009 ice storm, and as a result there were several downed trees. The cabinet saw a spike in the evaluation score because after the storm there were fewer trees to deal with. However, in FY 2012 and FY 2013, the cabinet is already seeing trees recover to the point where it is spending money to actively maintain those areas.

Guardrail repair is another maintenance activity the cabinet measures. There are two ways that guardrail maintenance can be measured. In this particular presentation, the cabinet is measuring the guardrail that already exists. The cabinet is notified that a guardrail needs replaced or fixed when it receives a call from the police or a citizen. In other instances the drivers that the cabinet sends out to ensure it knows where all of the damaged guardrails are, notifies them. The cabinet will spend the money and resources it needs to make sure the guardrails get repaired. Across the state, the cabinet feels that it is doing pretty well managing guardrail repair. Ms. Albright stated when a guardrail is reported as damaged, it is repaired as soon as possible.

In response to a question asked by Chairman Harris, Ms. Albright stated that guardrail includes cable barriers and the cabinet measures that as well.

Ms. Albright stated once the guardrail is installed, KYTC does its best to make sure it stays in good repair. The issue remains that there is a great need for several more guardrails to be installed, therefore the cabinet will continue to seek funding for installation.

In response to a question asked by Representative Riggs concerning the ability to collect reimbursement from insurance companies on damaged

guardrails, Ms. Albright stated the cabinet has staff who coordinate the repair and the claims damages with the insurance companies. Representative Riggs stated he would like to see more information on the efficiency of the collection of funds for damaged guardrails and if there is any success in that area. He stated the cabinet is measuring its performance, but not measuring the performance of the cabinet's subrogation. He stated it is worrisome to him that there is a possibility of funds that the tax payers can be reimbursed, but the reimbursement is not happening. Representative Riggs asked if the cabinet sues anyone for the funds to be recovered. Secretary Hancock stated the claims process is housed within the legal office and is geared toward the direction of recouping as much money as possible. One of the issues is that the cabinet does not always know who hits the guardrail, and there is not always a police report to refer to. Secretary Hancock stated several of the damaged guardrails are noticed when traveling staff notices them and there is no way of knowing who did it.

In response to a question asked by Chairman Collins, Ms. Albright stated the cabinet has never met its benchmark on vegetation clearance.

In response to a question asked by Representative Couch, Ms. Albright stated the cabinet will not be requesting the full \$42 million needed to install all 295 miles of new guardrail needs identified, but it will request an increased amount from current level funding requests.

In response to a question asked by Representative Stewart, Secretary Hancock stated he could look into the State Police placing a hold on the vehicles responsible for damaging guardrails, but he does not believe that has ever been done before. He added the legal office has a process it follows routinely.

Senator Smith stated the trees and foliage that make the eastern part of the state beautiful also make it very dangerous, and there is often a need for trees to be cut back off of the roads. In response to a question asked by Senator Smith concerning the equipment needed to clear the roads from trees, Secretary Hancock stated any equipment that is located at any place within the state may be used elsewhere in the state if that equipment is currently sitting idle. The cabinet's policy is that the equipment needs to be where it will be used.

Ms. Albright stated another maintenance activity that is measured is pavement ride quality on state maintained highways. She stated neither the public, nor the cabinet believes the cabinet is at its full performance potential with this area and there is room for improvement.

Secretary Hancock stated pavements are a key part of what the cabinet does, and its resurfacing program budget has been fairly constant at \$98 million annually. He indicated that an upcoming budget request from the cabinet may request a larger

amount for pavements in the upcoming biennial budget request.

In response to a question asked by Senator Smith, Ms. Albright stated the pavement work at Slade at Natural Bridge used a high friction surface that is skid resistant, and so far the cabinet has been pleased with that product.

Shoulder maintenance is another maintenance activity that the cabinet measures. Because of a lack of funding, when the cabinet is pressed for resources, it tends to ensure driving lanes are better maintained than the shoulders, and as a result the KYTC has not met the benchmark on shoulder maintenance.

Ms. Albright stated the cabinet is exploring alternatives as to how it maintains roadways and pavement preservation moving forward, which would include not only the resurfacing program and the requested increase that it will most likely submit, but also include the alternatives to helping spend. She stated spending \$1.00 while the road is still in good condition, is much less expensive than spending \$4.00 or even \$5.00 for more expensive treatments if repair spending is delayed.

Ms. Albright stated if \$10.5 million is invested in the current pavement process, 75 percent of the benchmark would be realized by the cabinet, but if \$10.5 million were invested in preventative maintenance of the pavements, 92 percent of the benchmark of either good or fair condition would be realized, and that is what it is aiming for.

Ms. Albright discussed bridge preventative maintenance. Washing and cleaning the bridges, lubricating the bearings, sealing the deck joints, cleaning the drains, painting steel (including spot painting), removing debris from the channels and scour protection is all part of a bridge preventative maintenance plan.

Ms. Albright stated part of the cabinet's unknown cost factors that impact its budget is emergency bridge repairs. In Kentucky there are bridges that are hit and the cabinet has to take steps to repair the damages, which may include shutting down the bridges or restricting them down to only one lane. An emergency contract is put together to make those repairs. Another unknown cost factor that affects the cabinet's budget is unexpected snow and/or ice that may occur either before season or after season in any part of the state.

The breakdown of the approximate \$42 million needed for snow and ice expenditures includes 11 percent of that amount needed for state equipment, 35 percent of that amount for contract equipment, 32 percent for materials, 21 percent for state labor, and 1 percent for miscellaneous needs.

Chairman Harris stated he appreciates the cabinet's self analysis on its performance.

In response to a question asked by Senator Westerfield, Ms. Albright stated the \$10.5 million preventative

maintenance is a per year total and that consistent amount can do more than a one-time infusion of cash.

In response to a question asked by Westerfield, Ms. Albright stated the cabinet has a staff that goes out and measures the ride quality using not only a nationally recognized set of equipment, but technicians as well. Those technicians have the sole job to drive around the state, measure and collect data. That data is then assembled into a computer program that measures how many potholes per mile, how much rutting may be occurring per mile, and that information is taken and aggregated together so that for any given mile of roadway, the cabinet can evaluate that information and combine it into a score of good, fair or poor. The cabinet also combines the collected information with the amount of traffic and type of roadway that it is. Interstates have a higher expectation of a standard. Ms. Albright stated the data is collected using material that is housed under the underside of a bumper on a vehicle. There are lasers housed under those bumpers that measure down onto the pavement if the vehicle is driven at highway speeds.

In response to a question asked by Representative Steele, Ms. Albright stated most of the salt Kentucky purchases for use in the winter originates in Louisiana, but there are two or three different vendors that then transport the salt up the river and offload it in Portsmouth, Knoxville, Paducah or Louisville. The cost of a ton of salt varies across the state, near Louisville there is a much lower bid because transportation cost is lower so the cost is near \$65 to \$70 per ton. In Eastern Kentucky where transportation is a little more, the cost becomes in the \$80 or more per ton.

In response to a question asked by Representative Wuchner concerning an inventory of equipment and the budget projections over the years, Ms. Albright stated the maintenance replacement of the equipment that's owned by the state is included in the projections but has a different category.

In response to a question asked by Senator Smith, Ms. Albright stated the cabinet anticipates being prepared for approximately 250,000 tons of salt usage in a year.

Senator Smith stated the lack of water quality that has been attributed to coal for the last several years has also been impacted by the salt left behind during the winter months. He stated from a chemical side, salt is forever, and it gets into the streams, and a lot of that salt is not separated back out and then the throwback becomes on coal.

In response to a question asked by Representative Simpson concerning the state paying out claims for people who hit potholes, Secretary Hancock stated he is unsure of how much the State pays out annually for pothole claims, but he will gather that information and provide it for

the committee. The process for claims for potholes is similar to some of the activities the cabinet goes through to try to fund reimbursement on guardrails. People have actually had cars disabled because of potholes, and there is a process that has to be gone through to make the claim, and then collect on that claim. Secretary Hancock stated he does not know exactly what the liability is in those cases, but it suffices to say when the cabinet knows a pothole is there, it works to fill it as quickly as possible because it does not want to create incidents through the cabinet's own negligence.

In response to a question asked by Representative Imes, Ms. Albright stated the cabinet does not allow the inmate labor program to be utilized out on the interstate system because of safety issues. She stated the cabinet does utilize the inmates occasionally for brush clearing and weed eating and that she will explore the possibility of using them for drainage in the future.

Chairman thanked members and guests for attending the meeting and adjourned the meeting at 10:20 AM.

After the conclusion of the meeting, interested committee members took a tour of the Cumberland Gap Tunnel and were briefed on the operation of the facility.

## **INTERIM JOINT COMMITTEE ON VETERANS, MILITARY AFFAIRS, and PUBLIC PROTECTION**

**Minutes of the 3rd Meeting  
of the 2013 Interim**

**September 12, 2013**

### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, September 12, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Christian McDaniel, Dennis Parrett, Albert Robinson, Kathy W. Stein, Whitney Westerfield, and Mike Wilson; Representatives, Regina Bunch, Tom Burch, Denver Butler, Dwight D. Butler, Leslie Combs, Tim Couch, Ron Crimm, Myron Dossett, David Floyd, Kenny Imes, Jimmie Lee, Terry Mills, Tom Riner, Rita Smart, and Russell Webber.

Guests: Rodney Brewer, Commissioner, Kentucky State Police; COL (Ret.) Tim Hazlette, President, Kentucky State Police Professional Association; Ken Lucas, Commissioner, Margaret Plattner, Deputy Commissioner, Dennis Shepherd, Legal Counsel, and Dean Carver, Regional Administrator, Field Operations, Kentucky Department of Veterans, Affairs; and Billy Young,



Director of EMS Education and Licensure, Kentucky Board of Emergency Medical Services.

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

#### **Minutes**

Representative Floyd moved to adopt the July 11, 2013, meeting minutes. Representative Combs seconded the motion, and the minutes were adopted.

#### **KSP Force Reduction Due to Budget Shortfall**

Commissioner Rodney Brewer gave an overview of the KSP budget reductions and expenditures for 2012 and how they have affected 2013. Commissioner Brewer stated that 22 staff had been laid off due to budget cuts and a \$4 million dollar debt that KSP was unable to pay during the fiscal year. Holding back pay until July 1, 2013, helped because 2013 funds could be applied; however, it set the tone for 2013 by starting in the hole. With the \$4 million dollars taken from the 2013 budget and given to the 2012 year alone with one more payroll in 2013 than 2012 at the cost of an additional \$6 million, KSP had a starting debt of \$10 million.

KSP looked at all programs and all available funds and was able to trim the debt to nearly \$8 million. The projection for 2014 is a \$5.8 million shortfall. KSP is planning reductions to include the Trooper R Program at a savings of \$1.25 million, less administrative help (as seasonal work) from \$450,000 to \$200,000, use of \$1 million of asset monies from drug seizures to offset new cruisers with a \$3.5 million price tag, and moving \$2.5 million out of Juvenile Justice. Salaries have decreased \$11.5 million in the past five years. However, veteran officers are retiring, and training for new cadets is a considerable cost. The agency's sick leave payout is about \$1.25 million a year. In 2014, KSP will seek an additional \$3 million in retirement contributions. Additional budget pressure comes from increased healthcare costs, needed technology updates, up to a 40 percent decline in federal money, fewer officers driving more miles, and replacing 125 vehicles for which there has been no separate line item for 8 years. The fleet mileage is through the roof. Over half of the cars have over 150,000 miles, and old vehicles need more maintenance. The fuel bill for next year is projected to be \$7 million and therefore is at the smallest strength level despite having a cadet class each year. Due to retirement and unfilled vacancies, there is a loss of 66 sworn troopers.

In response to a question from Co-Chair Higdon, Commissioner Brewer stated that the loss of 66 officers has caused KSP to rely upon local agencies to respond, instead of KSP, for some crashes and other calls.

In response to a question from Representative Floyd, Commissioner Brewer stated that the reason for a large number of retired troopers is due to a wave of veteran officers needing to get

the best of their top five years due to the economy. The lack of salary or cost of living increases has not provided an incentive to stay.

In response to a question from Representative Couch, Commissioner Brewer stated that since motor vehicle enforcement merged with KSP, it is still fully funded through Transportation money; it has eliminated several positions and saved the state \$2.2 million in federal money and has increased the assets for transportation.

In response to a question from Representative Bunch, Commissioner Brewer stated that there have been 20 contract employees laid off from the Trooper R program.

#### **Kentucky Department of Veterans Affairs: Benefit Field Representative Operations and "I Support Veterans" License Plates**

Ken Lucas, Commissioner, Margaret Plattner, Deputy Commissioner, and Dean Carver, Regional Administrator, Field Operations Division, Kentucky Department of Veterans Affairs, gave a PowerPoint presentation on Benefit Field Representative Operations and "I Support Veterans" license plates.

Mr. Carver discussed the KDVA field operations for 2012. Constituent correspondence assistance averages 50 cases per month. KDVA Field Representatives average five in home visits per month, and Regional Administrators conduct approximately 8-10 hearings quarterly.

The US Department of Veterans Affairs FY12 expenditures in Kentucky include vocational rehabilitation, educational assistance, unemployment compensation, disability compensation, death and disability pensions, life insurance, physical and mental healthcare, nursing home care, and burial honors and benefits. These expenditures total \$1.9 billion.

Mr. Carver explained the "D2D" claims process which is the name of a VA program that takes claims from many claims management systems and provides a uniform/consistent way to submit them to the VA. It is critical to serving our veterans as two-thirds of the VA's customers have their own claims management systems, and it will help the VA accelerate the speed by which claims are filed, resulting in quicker rating decisions for veterans. Mr. Carver described the D2D claims processing as similar to Turbo Tax where the Internal Revenue Service published the specifications for submission of electronic tax returns and they let the private sector development tax submission.

KDVA is committed to lessening the backlog of claims within the state and are working with the VA Regional office to submit fully developed claims which will lessen the time a veteran waits to receive his or her much needed compensation. Currently over 70 percent of all claims submitted are fully developed. KDVA's goal is to have 90 percent fully developed

claims in 2013.

Commissioner Lucas stated that the I Support Veterans License Plates program has generated \$52,966.27 in revenue with a total of 4,904 plates sold at this point.

#### **Military Training Credit for Emergency Medical Services Licensing**

Bill Young, Director of EMS Education Advisor, Kentucky Board of Emergency Medical Services, gave a PowerPoint presentation on how the EMS was recognizing military credit towards licensure.

Mr. Young discussed the history of the military medic and the current medic to EMS provider process in Kentucky.

In response to a question from Co-Chair Pullin, Mr. Young stated that all medics are certified at the basic level of licensure while in the military, however, some medics are practically trained like surgeons or at the highest level of expertise in the military and are returning home to being certified at only a basic level. He stated that they are getting ready to review the paramedic regulations and hope to adjust the skill sets and standards for licensure for multiple levels of medics by the end of this year.

There being no further business, the meeting adjourned.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

September 17, 2013

#### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee met on Tuesday, September 17, 2013, at 1 p.m., in Room 169 of the Capitol Annex. Representative Kevin Sinnette, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Julian Carroll, Chris Girdler, Bob Leeper, and Christian McDaniel; Representatives Robert Damron, Steven Rudy, Kevin Sinnette, and Jim Wayne.

Guests Testifying Before the Committee: Secretary Larry Hayes, Kentucky Cabinet for Economic Development; Mr. Jim Host, Former Chairman of the Louisville Arena Authority; Mr. Clifford Rippetoe, President and CEO, Kentucky State Fair Board; Mr. Bob Wiseman, Vice President for Facilities Management, University of Kentucky; Mr. Larry Blake, Assistant Vice President for Facilities Management, Northern Kentucky University; Mr. Scott Aubrey, Director, Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Mr. John Covington, Executive Director, Kentucky Infrastructure Authority; and Mr. Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Kristi Culpepper, Josh Nacey, and Angela Offerman.

#### **Approval of Minutes**

Kristi Culpepper, Committee Staff Administrator, said KIA presented five

Fund F loans for approval to the committee on March 19, 2013. The presentation included requests from the City of Frankfort for a \$4,000,000 loan for the Alternate Power Generation project and the Henry County Water District #2 for a \$2,855,000 loan for the Morton Ridge Main Upgrade project.

Four loans, including the City of Frankfort and Henry County Water District #2, were approved by the committee under a single motion. Senator Carroll made a motion to approve the Fund F loans, excluding the City of Barlow project. The motion was seconded by Senator McDaniel and passed by roll call vote.

The meeting minutes did not reflect the approval of the two Fund F loans. The recording of the meeting; however, confirmed both loan requests were presented and approved.

Senator McDaniel made a motion to approve the minutes with this clarification. The motion was seconded by Senator Girdler and approved by voice vote.

#### **Resolution Honoring Dr. Robert Tarvin**

Angela Offerman, Committee Assistant, read a resolution honoring Dr. Robert Tarvin, who retired on August 31, 2013, as Executive Director of the School Facilities Construction Commission.

#### **Correspondence Items**

Ms. Culpepper presented two correspondence items. The first item included letters from the committee to the Secretary of the Finance and Administration Cabinet; the Assistant Vice President for Administration and Finance of Northern Kentucky University (NKU); and the Vice President of Business Affairs of the University of Louisville advising them that no action had been taken on the projects submitted for August because the meeting was cancelled.

The second item included letters from the Finance and Administration Cabinet and NKU advising the committee that they would proceed with the projects as permitted in statute.

#### **Information Items**

Ms. Culpepper said there were eight information items for review. The first item was from the Department of Public Advocacy (DPA) regarding the amortization of leasehold improvements reported to the committee at the July 16, 2013, meeting. According to the report presented to the committee, DPA requested that Luxe Vinyl plank tile be installed in the facility and in all leased space going forward. Members requested that DPA explain why the agency asked for tiling from a specific manufacturer. In a letter to committee staff, DPA explained that it did not desire any particular brand of tile, but the agency requested tile to reduce long-term maintenance costs, prevent allergies, and maintain a more professional appearance in the more heavily used areas of their offices.

The second item was follow-up information regarding the Construct CERF-P Facility – Boone National Guard

Center Project. During the committee's June 18, 2013, meeting, members asked for a breakdown of the costs for the improvements associated with recent scope increases and the estimated savings from energy conservation measures. The breakdown was provided to members.

The third item was the annual status report from the Administrative Office of the Courts on the Court Facility Use Allowance Contingency Fund. In fiscal year 2013, there was an expenditure of \$116,800 for an additional bond sale for Morgan County due to tornado damage. The allocation was authorized by the committee in September 2012.

The fourth item was a notice of advertisement for leased space from the Finance and Administration Cabinet for the Cabinet for Health and Family Services in Franklin County.

The fifth item was a letter from the Office of Financial Management regarding an interim loan for the Administrative Office of the Courts. 2013 HB 238 authorized \$28,100,000 of agency bonds for the Phase One E-Case and Docket Management System. The project has received interim financing for \$15,000,000 of the total authorization through a loan from JP Morgan Chase under the state's master lease contract. The loan closed on August 16, 2013, and has a two-year term, and an interest cost of 0.98 percent.

The sixth item was the annual report of bonds outstanding from the Office of Financial Management.

The seventh item was a report on Kentucky's Bonded Indebtedness that committee staff submitted to the Capital Planning Advisory Board.

The final information item included documents related to the negative impact reimbursement agreement between the Kentucky State Fair Board (KSFB) and the Louisville Arena Authority (LAA), which members requested at the July 16, 2013, meeting. Member materials included a timeline for the Louisville Arena project; a staff memorandum; language from 2006 HB 380 stipulating conditions for the \$75,000,000 grant that the state made from General Fund supported bond funds for the project; an invoice KSFB sent to LAA in May 2013 for services provided to LAA; a resolution and clarification related to the negative impact reimbursement; the minutes from the May 2013 KSFB meeting; the Mutual Agreement of Dissolution and Termination – Amended and Restated Operations and Management Agreement from July 2012, which terminated an earlier agreement for KSFB to manage the arena and modified what was owed under the negative impact reimbursement; correspondence between committee staff and LAA's accountant; and media reports related to possible modifications to the arena's tax increment financing district.

In response to questions from Chairman Sinnette, Mr. Clifford Rippetoe, President and CEO, Kentucky State Fair

Board, said an invoice was sent to LAA for \$1,470,000 for services rendered and not connected to the negative impact reimbursement. The negative impact reimbursement, as identified in the bond indenture, was addressed separately by KSFB in May 2013, and was a part of the clarification statement. Mr. Rippetoe said \$750,000 has been set aside each year for the negative impact reimbursement and will be paid in January 2014 when the amount of negative impact reimbursement owed will be calculated. After the amount owed is determined, arrangements between the KSFB and LAA will be made for payment.

Mr. Rippetoe said that the bond indenture requires that LAA operating fund, reserve account, and debt service be funded prior to the negative impact reimbursement to KSFB. If funding is available, the reimbursement will be made to KSFB after January 2014.

Mr. Rippetoe said the clarification issued in May 2013 was reviewed by KSFB internal legal counsel, the Governor's Office, the Finance and Administration Cabinet, and LAA. It clarified that any action taken could not supersede the bond indenture, and specifically, agreements as addressed in the Bond Trust Indenture Section 404 and 409.

Mr. Rippetoe said KSFB expects to ask the General Assembly for an appropriation of General Funds based on the three-year loss of operating income from Kentucky Kingdom, Executive Inn East, and the loss of the University of Louisville programs at Freedom Hall. The estimated deficit is \$3,600,000.

In response to questions from Senator McDaniel, Mr. Rippetoe said there is no debt at this time because the calculation of the negative impact reimbursement will not occur until January 2014. The forgiveness of \$5,500,000 owed from the LAA was necessary for accounting purposes. The amount was an estimate based on the bond indenture requirement that \$750,000, plus interest, be placed into a reserve fund by LAA annually in anticipation of making the negative impact reimbursement payments after January 2014. KSFB was not counting the payment as a credit or revenue because it is unknown as to whether the funding will be available when the calculation occurs.

Mr. Rippetoe said that KSFB has not lost business aside from the University of Louisville athletics at Freedom Hall. KSFB has maintained the same revenue levels and is in the process of calculating the bottom-line impact.

In response to a question from Senator McDaniel, Secretary Larry Hayes, Cabinet for Economic Development, said that both LAA and KSFB used the same accountant. Mr. Rippetoe said both agencies have had an audit performed.

Senator McDaniel asked if the termination of the management agreement between KSFB and LAA was a result of mismanagement by KSFB and if the mismanagement led to the necessity

of the debt forgiveness. Mr. Jim Host, former Chairman of the Louisville Arena Authority, said LAA lost \$3,800,000 the first year that KSFB was responsible for the management of the arena. He ordered a management audit because, under ordinance, Louisville Metro pledged a guaranteed minimum of \$6,500,000 and a maximum of \$9,800,000 for debt service. The management audit was performed by outside consultants and showed the arena operations were flawed. LAA made the decision to change management firms.

The first year with the new management firm, AEG, LAA realized a \$1,800,000 operating profit. The profit was used for debt service; funding of the renovation replacement fund; the city guarantee amendment; and to replenish the replacement fund as a result of loss of the loss of UL programs at Freedom Hall. Mr. Host also added the debt service reserve fund of \$16,000,000 has never been touched.

Mr. Host said that the arena was attracting new events, generating revenue, and making a positive economic impact to downtown Louisville.

Mr. Rippetoe said KSFB, LAA, and AEG work cooperatively and KSFB will continue as the contract provider for staff services to provide security, perform ushering services, sales of merchandise, and taking of tickets.

Senator McDaniel said the ongoing relationship between KSFB and LAA needs to have more oversight through reporting to the General Assembly because of the revenue loss, which will result in the request for an appropriation from the General Fund. When the calculations of the negative impact reimbursement are performed in January 2014, Senator McDaniel requested the information be presented to the committee.

In response to a question from Chairman Sinnette, Secretary Hayes said the original tax increment financing (TIF) district was reduced from six miles to two miles because of non-performance. The short-term goal was to improve the Standard & Poor's rating and make it possible to refinance at a lower interest rate within two years.

In response to questions from Representative Wayne, Secretary Hayes said the state's contribution to the project was the TIF contribution and the larger TIF area was not performing. Therefore, the decision was made to make the TIF area smaller to free up the area for community development.

Representative Wayne asked for an explanation of why the resolution was necessary. Mr. Rippetoe said the intent of the original resolution was to suggest a clean break to put aside all agreements, including dissolution agreements, to get back to the intent of the bond indebtedness documents to move forward. The dissolution agreement required clarification. Thus, the clarification document was read into the KSFB minutes, but did not require action.

Representative Wayne said the General Assembly needs to be a part of actions taken regarding debt forgiveness and changes to agreements.

In response to a question from Representative Damron, Secretary Hayes said the revenues from the new TIF district in 2012 was \$3,600,000 and is estimated to be \$5,700,000 in 2013.

In response to a question from Senator Leeper, Mr. Rippetoe said an appropriation from the current budget will be requested to address the estimated \$3,600,000 deficit.

#### **Project Report from University of Louisville (UL)**

Ms. Culpepper said at the May 21, 2013 meeting, committee members requested that UL provide regular updates to the committee regarding funds UL has raised for the Schnellenberger Football Complex Addition/Upgrade project. The \$7,500,000 project will be fully funded by the UL Athletic Association.

According to the university, the athletic association has raised approximately \$3,000,000 and the project will not begin until all needed funds are raised. No action was required.

#### **Project Reports from University of Kentucky (UK)**

Mr. Bob Wiseman, Vice President for Facilities Management, UK, presented four items. The first report involved the purchase of unbudgeted medical equipment. The item purchased was an ICD-10 SCM 6.1 Hardware System to be used to house and support the SCM application and database, which upgrades current inpatient health care records. The cost of the system was \$3,157,022 and was paid from restricted funds. No action was required.

The second item involved the purchase of unbudgeted medical equipment. The item purchased was a Central Pharmaceutical Distribution System that provides heavy-duty automated storage for all medication to allow for greater inventory control, enhanced workflow efficiency, improved patient safety, and maximum storage. The cost of the system was \$2,572,846 and was paid from restricted funds. No action was required.

The third item was an emergency repair, maintenance, or replacement project, Replace Woodford County Feed Mill project. On May 26, 2013, a fire destroyed the College of Agriculture's feed manufacturing facility. The facility was insured through the university's risk management division and was covered to the level of full replacement cost. The \$3,000,000 project will be funded with insurance proceeds and was approved by the UK Board of Trustees on September 10, 2013.

In response to a question from Representative Rudy, Mr. Wiseman said that the facility only serves the College of Agriculture farms and produces specialized feed for research purposes. UK has been purchasing feed from other



sources, which has not been cost effective. No action was required.

The fourth item was an unbudgeted capital project, Renovate Schmidt Vocal Arts Center Capital project. The \$1,700,000 capital project was the second phase of an earlier privately funded project. The university raised \$1,235,000 in private funds and expects the remaining \$465,000 to be funded with university-restricted funds. The UK Board of Trustees approved the project on September 10, 2013.

Representative Damron made a motion to approve the unbudgeted capital project. The motion was seconded by Representative Wayne and approved by roll call vote.

**Project Report from Northern Kentucky University (NKU)**

Mr. Larry Blake, Assistant Vice President for Facilities Management, NKU, reported the acquisition of Lakeside Terrace, a former senior housing apartment complex, on June 27, 2013, from the Campbell County Fiscal Court for \$1,400,000. The facility was adjacent to another residence hall and, when renovated, will add approximately 200 beds. The total investment cost, including acquisition cost, will be approximately \$12,000,000. The NKU Board of Regents approved the land acquisition on January 9, 2013. No action was required.

**Lease Reports from the Finance and Administration Cabinet**

Mr. Scott Aubrey, Director, Real Properties, Finance and Administration Cabinet, presented two items. The first item was for a lease modification and amortization of leasehold improvements for the Cabinet for Health and Family Services (CHFS) in Henry County. The amortization of leasehold improvements was to complete security-related improvements to the receptionist area, which included the installation of a solid wood/metal frame with a safety glass vision panel, voice port, a slotted pass-through at the bottom of the window, panic bar, and electronic keypad entry for staff.

Two estimates were obtained for the improvements and the cabinet recommended accepting the lowest bid of \$4,895 from KB Contracting. The cost will be amortized through the term of the lease, which will expire June 30, 2018. No action was required.

The second item was for a lease modification for the consolidation for multiple leases for CHFS in Franklin County, including necessary temporary space to house 159 staff associated with the Medicaid Enterprise Management System, resulting in an increase of 20,564 square feet (sq ft) (from 29,454 sq ft to 50,019 sq ft) and an increase of \$205,650 in annual rent (from \$294,540 to \$500,190).

Representative Wayne made a motion to approve the lease modification. The motion was seconded by Representative Damron and was not approved by roll call

vote.

In response to questions from Representatives Wayne and Rudy, Mr. John Hicks, Deputy State Budget Director, said the leased space will house staff associated with the Medicaid Enterprise Management System and will be adjacent to space occupied by the Health Benefits Exchange staff.

Representative Rudy made a motion to reconsider the vote. The motion was seconded by Senator McDaniel and approved by roll call vote.

Senator McDaniel made a motion to approve the lease modification. The motion was seconded by Representative Wayne and was approved by roll call vote.

**Project Reports from the Finance and Administration Cabinet**

Mr. John Hicks, Deputy State Budget Director, presented two new unbudgeted capital projects. The first project was a request from the Department of Military Affairs to pave and strip 89,100 square feet (sq ft) of roadway and 159,000 sq ft of parking areas at the Harold L. Disney Training Site in Knox County. The project appropriation was \$750,000 and was 100 percent federally funded.

Representative Damron made a motion to approve the capital project. The motion was seconded by Senator McDaniel and approved by roll call vote with one “no” vote.

The second project presented was a request from the Department of Military Affairs to upgrade the exhaust system at the Unit Training and Equipment Site located at the Wendell H. Ford Regional Training Center in Muhlenberg County. The project appropriation was \$775,000 and was 100 percent federally funded.

Representative Damron made a motion to approve the capital project. The motion was seconded by Representative Rudy and approved by roll call vote with one “no” vote.

**Kentucky Infrastructure Authority (KIA) Loans**

Mr. John Covington, Executive Director, Kentucky Infrastructure Authority, presented a Fund A Loan increase for the Regional Water Resource Agency in Daviess County. The request was for a \$246,887 increase to the previously approved \$5,790,500 Dublin Lane Sewer Outfall Reconstruction and Veterans Drive Sewer Rehabilitation projects. The new Fund A loan amount was \$6,037,387. The increase will partially fund additional costs incurred of approximately \$600,000 due to heavy rains and flooding in April 2011. Mr. Covington said the loan will have a 20-year term, an interest rate of one percent, and an estimated annual debt service payment of \$345,888.

Representative Wayne made a motion to approve the Fund A Loan increase. The motion was seconded by Representative Rudy and approved by roll call vote.

The second request was a Fund F Loan increase for the City of Covington in Carroll County. Carrollton Utilities (CU) requested the increase of \$185,027

to the previously approved \$1,850,270 Countywide Underserved Project. The new Fund F loan amount was \$2,035,297. The increase was requested because costs were higher than originally projected due to 1) an increase in the scope of the preliminary engineering report to evaluate alternative water softening technologies, and 2) higher than anticipated line installation costs.

The regional solution to Carroll County’s source water, water treatment, and distribution needs involved various construction components that will benefit CU, the Carroll County Water District #1, and the West Carroll Water District affecting over 5,650 customers. Mr. Covington said the loan will have a 30-year term, an interest rate of one percent, and an estimated annual debt service payment of \$54,460.

Representative Wayne made a motion to approve the Fund A Loan increase. The motion was seconded by Representative Rudy and approved by roll call vote.

**New Bond Issues Submitted from the Office of Financial Management (OFM)**

Mr. Ryan Barrow, Executive Director, OFM, presented two new bond issues. The first bond issue was for Kentucky Economic Development Finance Authority (KEDFA) Industrial Building Revenue Bonds Catholic Health Initiatives, Series 2013. This was a conduit bond issue and the debt will be a general obligation of Catholic Health Initiatives and not a debt of the state or KEDFA.

The Louisville-Jefferson County Metro Government, Laurel County Fiscal Court, Montgomery County Fiscal Court, and Lexington-Fayette Urban County Government adopted resolutions requesting KEDFA issue the bonds. A Tax Equity and Fiscal Responsibility Act hearing was held for the purpose of receiving public comment on the proposed bond issue.

The bond issue will refinance outstanding commercial paper, which provided interim financing for projects in London and Mt. Sterling, Kentucky. The proposed date of sale is November 5, 2013 and the net proceeds for the project were \$140,000,000.

Representative Wayne made a motion to approve the new bond issue. The motion was seconded by Representative Rudy and approved by roll call vote.

The second bond issue presented was Western Kentucky University General Receipts Revenue Bonds, 2013 Series A, to refinance the remaining part of the Downing University Center renovations (authorized by 2012 HB 265) and fully finance the construction of the Honors College facility project (authorized by 2013 HB 7).

The bond issue was approved by the university’s Board of Regents on July 26, 2013, and the proposed date of sale will be October 15, 2013. The expected ratings are Moody’s Aa3 (intercept), A1 (underlying) and S&P A+ (intercept), A

(underlying). The true interest cost is 4.36 percent, with a 20-year term, and the total estimated debt service is \$54,324,191. This will be a competitive transaction and Peck, Shaffer and Williams will serve as bond counsel; Hilliard Lyons as financial advisor; and US Bank as trustee.

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

**Follow-up Reports from the Office of Financial Management**

Mr. Barrow presented follow-up reports for three previously approved bond issues. The first report was for a conduit issuance with Kentucky Housing Corporation Multifamily Housing Revenue Bonds (Most Blessed Sacrament Senior Apartments Project), Series 2013, dated August 28, 2013. The bond issue will finance the acquisition, construction, and equipping of the Most Blessed Sacrament Senior Apartments. The facility consists of 30 senior units and is located at 1128 Berry Blvd., Louisville, Kentucky. Frost Brown Todd LLC served as bond counsel; the method of sale was direct placement with Citizens Union Bank of Shelbyville, Inc.; and the developer was Housing Partnership Inc. The final maturity date will be August 1, 2033. The total project cost was \$7,229,332. No action was required.

The second report was for a conduit issuance with Kentucky Housing Corporation Multifamily Housing Revenue Bonds (Sheppard ACD Apartments Project), Series 2013, dated August 21, 2013. The bond issue will finance the acquisition, construction, and equipping of the Sheppard ACD Apartments. The facility consists of 129 units and is located at 520 East Jacob St., Louisville, Kentucky. Peck, Shaffer and Williams LLP served as bond counsel; PNC Capital Markets, LLC, underwriter; and Louisville Metropolitan Housing Authority, developer. It was a public offering with a total project cost of \$13,000,000.

The third report was for a \$212,545,000 Asset/Liability Commission Project Notes, 2013 Federal Highway Trust Fund First Series A (GARVEE) bond issue. The purpose of the bonds was to provide financing for the Kentucky portion of the Louisville-Southern Indiana Ohio River Bridges Project (LSIORBP) using the authorization from 2008 House Bill 410 and 2010 Extraordinary Session House Bill 3. With this issue, all GARVEE authorizations have been exhausted for the LSIORBP. The transaction was priced on July 26, 2013; closed on August 8, 2013; and September 1, 2025 is the final maturity on the debt. The true interest cost was 3.368 percent and it was a negotiated transaction with Citigroup Global Markets Inc. Kutak Rock LLP served as bond counsel and Bank of New York Mellon as trustee.

**New School Bond Issues with School Facilities Construction**

## Commission (SFCC) Debt Service Participation

Mr. Barrow reported ten school bond issues with SFCC debt service participation with a total par amount of \$51,250,000. The state portion of the annual debt service payment was \$1,032,246 and the local contribution was \$3,301,466. The bond issues did not involve tax increases.

Senator Leeper made a motion to approve the new bond issue. The motion was seconded by Representative Rudy and approved by roll call vote.

With there being no further business, the meeting adjourned at 2:53 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September Meeting  
September 11, 2013

### Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, September 11, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Joe Bowen, Perry B. Clark, and Sara Beth Gregory; Representatives Jimmie Lee, and Tommy Turner.

Guests: Darrell Johnson, Stephen McMurry, Timothy West, UK College of Agriculture Regulatory Services; Noel Caldwell, John McGarvey, Office of Secretary of State; Jeff Boler, Mark Johnson, Jim Oliver, Melissa Russell, Department of Revenue; Mike Rodman, Julie Swindler, Lloyd Vest, Kentucky Board of Medical Licensure; Angela Evans, Shelly Saffran, Ky Real Estate Commission; Robin Harris, Michael West, Kentucky Board of Speech Language Pathology and Audiology; Matt James, Larry Smith, Licensed Diabetes Educators; Tina Brunjes, Steven Dober, Benjy Kinman, David Wicker, Kentucky Fish and Wildlife; Richard K Kessley, Zeb Weese, Department for Natural Resources; Amber Arnett, Department of Corrections; Dana M. Todd, Justice and Public Safety Cabinet; Ann DAngelo, Kim Jenkins, Todd Shipp, Transportation Cabinet; Chad Collins, Julian Tackett, Kentucky High School Athletic Association; Kevin C. Brown, Kim Kidwell, Amy Peabody David Wickersham, Kentucky Board of Education; Dustin R. Adams, Clay Lamb, Department of Workforce Investment; Trey Hieneman, Steve Humphress, Department of Alcoholic Beverage Control; Stephanie Bell, Daniel Hinton, Dennis Brent Kirtley, Jerry Wuetcher, Public Service Commission; Michael Davis, George Tokarchick; Department of Housing, Buildings and Construction; Julie Brooks, Robert Cotton, Elizabeth Caywood, Carlene Egbert, Paula Goff, Fran Hawkins, Stuart Owen, Cabinet

for Health and Family Services; Robert Bevins, Kentuckians for Science Education; Martin Brock, Eastern Kentucky University; Rick Clewett, Climate Parents; Martin Cothron, The Family Foundation, Terry Donoghue, Northern Kentucky Tea Party; Blaine Ferrell, Kentucky Academy of Sciences; Adrienne Gilbert, Constituents-Take Back Kentucky; Trent Garrison, American Institute of Professional Geologists; Edwin Hensley, Kentucky Secular Society; Richard Innes, Bluegrass Institute; Mike Mangrell, MoveOn.Org; Daniel Phelps, Kentucky Paleontological Society; Maureen Carman, Cindy Rusah, Paul Vincelli; Private Citizens.

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

The Administrative Regulation Review Subcommittee met on Wednesday, September 11, 2013, and submits this report:

The subcommittee determined that the following administrative regulation did not comply with statutory requirements and was deficient:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Instruction

704 KAR 3:303. Required core academic standards. Kevin C. Brown, general counsel; Karen Kidwell, division director; and David Wickersham, assistant general counsel, represented the department. Robert Bevins, PhD, Kentuckians for Science Education, appeared in support of this administrative regulation. Martin Cothran, senior policy analyst, The Family Foundation, and Richard Innes, staff education analyst, The Bluegrass Institute, appeared in opposition to this administrative regulation.

Dr. Bevins stated that Kentuckians for Science Education affirmed the science standards established in this administrative regulation. As an educator, Dr. Bevins witnessed graduates who had lost interest in science because of curriculum shortcomings. Too much of the curriculum was memorization, rather than hands-on experience. The average college or university student needed approximately forty-five (45) hours of remedial science education to prepare for college-level science classes. Many students had not been exposed to issues such as evolution, and most knew very little about global warming. Every school of note taught evolution and global warming. The science standards were open and flexible. The standards were formed with the input of many stakeholders, but some stakeholders still disagreed with the standards established in this administrative regulation. Dr. Bevins stated that those stakeholders overdramatized the curriculum's emphasis on global warming. Many of the referenced instances of the use of global warming were actually references to basic weather. Dr. Bevins

expected Kentucky and its students to be ridiculed if Kentucky was the first state to reject these standards. Kentucky students would be disadvantaged regarding out-of-state schools and careers. The economy would be hurt because business interests would then expect Kentucky employees to be unprepared, especially in areas of technology.

In response to questions by Senator Bowen, Dr. Bevins agreed that Northwestern University was a school of distinction. Senator Bowen stated that his son graduated from Northwestern University and was never criticized based on his Kentucky education.

In response to questions by Representative Lee, Dr. Bevins stated that the study of global warming required an understanding of basic scientific concepts, which were not being taught. When Kansas removed evolution from the state science standards, out-of-state schools viewed Kansas students negatively as a result. A scientific theory required a tremendous amount of supportive evidence. Evolution was taught as a scientific theory. Even if evolution was included in a curriculum, it was often at the end of the class syllabus and omitted due to time constraints.

In response to questions by Senator Clark, Dr. Bevins stated that the Next Generation Science Standards were not deficient in the areas of chemistry and physics. In fact, more physics concepts were included than in the past standards. Experts in chemistry and physics were involved with educators to develop these standards. Of the twenty-six (26) states involved in developing the standards, Kentucky generated some of the most comments.

In response to questions by Representative Graham, Ms. Kidwell recited a long list of prestigious academic institutions and scholars who were involved in developing these standards, including a Nobel laureate in chemistry. She stated that the standards consisted of a conceptual framework, rather than a specific curriculum. The standards were developed so that they could be updated as needed. It had been a decade since these standards had last been updated, and, since that time, there had been a plethora of research indicating better ways to teach science in the classroom, including promoting more hands-on experiences.

Mr. Innes stated that The Bluegrass Institute considered these standards to be sorely lacking because they taught to the lowest level of nontechnical science. The standards did not adequately prepare students for careers in technological fields. The Web site for the standards admitted that advanced chemistry and physics were not included. Only a foundation was provided for these higher areas of science. Every student should have the opportunity to learn high level chemistry or physics at the high school level. These standards did not include subjects not included in standardized testing.

Mr. Cothran stated that The Family Foundation was concerned about the emphasis on evolution and global warming

in these science standards, while at the same time deemphasizing science basics, such as classification. Half of the field of science was omitted by these standards, including the basics of natural science. It was a mistake for Kentucky to adopt standards without fully reviewing them. During the public input process, these standards were not amended in response to public concerns.

In response to a question by Co-Chair Bell, Mr. Brown stated that the cabinet did not agree to defer consideration of this administrative regulation to the October meeting of the subcommittee.

Senator Bowen stated that these standards did not have the overwhelming support of the citizens of the Commonwealth. There had been a groundswell of dissent regarding these standards. The responsibility of a legislator was to support the will of the citizens.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a typographical error; (2) to amend Section 2 to change the date of the material incorporated by reference; and (3) to amend the material incorporated by reference to: (a) change the edition date to September 2013; (b) change the summary of 704 KAR 3:305 in three (3) places to accurately describe the requirements of this administrative regulation; and (c) correct pagination errors in the document's introductory pages. Without objection, and with agreement of the agency, the amendments were approved.

Senator Bowen made a motion, seconded by Representative Turner, to find 704 KAR 3:303 as amended deficient. On a roll call vote, the administrative regulation as amended was found deficient with Co-Chairs Bell and Harris, Senators Bowen and Gregory, and Representative Turner voting in favor of the finding of deficiency.

Administrative Regulations  
Reviewed by the subcommittee:

AGRICULTURAL EXPERIMENT  
STATION: Seed

12 KAR 1:116. Sampling, analyzing, testing, and tolerances. Darrell Johnson, director; Stephen McMurry, director of fertilizer and seed programs; and Timothy West, director of business administration, represented the Agricultural Experiment Station.

12 KAR 1:135. Tags available for purchase from the director.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 1:140. Permits, reports, and fees for persons using own tags.

In response to a question by Co-Chair Harris, Mr. McMurry stated that the fee structure was revised to address issues



of seasonality.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 4 to delay the effective date of the fee changes until January 1, 2014; and (2) to amend Section 2 to clarify reporting requirements. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 1:145. Registration of agricultural seed dealers, noncertified custom seed conditioners, certified seed growers, and certified seed conditioners.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to insert additional relevant citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 1:150. Stop sale orders.

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 delete provisions that repeated statutory provisions. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 1:155. Schedule of charges for samples submitted for testing.

A motion was made and seconded to approve the following amendments to Section 1: (1) to delay the effective date of the fee changes until January 1, 2014; (2) for clarity; and (3) to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with objection of the agency, the amendments were approved.

12 KAR 1:165. Germination standards for vegetable seed.

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 Section 1 to: (a) specify that muskmelon has a germination standard of seventy-five (75) percent; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

SECRETARY OF STATE:  
Implementation of Revised Article 9

30 KAR 5:010 & E. Definitions for 30 KAR Chapter 5. Noel Caldwell, general counsel, and John McGarvey, commissioner, represented the office of the Secretary of

State.

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

30 KAR 5:020 & E. General provisions.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 5 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

30 KAR 5:030 & E. Acceptance and refusal of records.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 6 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

30 KAR 5:040 & E. UCC Information Management System.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 17 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 18 to incorporate by reference the Financing Form. Without objection, and with agreement of the agency, the amendments were approved.

30 KAR 5:050 & E. Filing and data entry procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

30 KAR 5:060 & E. Search requests and reports.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to specify a five (5) dollar fee for search requests. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND  
ADMINISTRATION CABINET:  
Department of Revenue: Inheritance Tax

103 KAR 2:005. Life expectancy table. Jeff Boler, tax policy consultant; Mark Johnson, tax policy consultant; and Jim Oliver, director, Division of Miscellaneous Taxes, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS

Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Corporations

103 KAR 16:230. Intangible expenses, intangible interest expenses, and management fees.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Selective Excise Tax; Cigarettes

103 KAR 41:120. Retention of records.

In response to questions by Co-Chair Bell, Mr. Johnson stated that some non-stamped cigarettes were stored by wholesalers until sold to retailers. Changes to the retention of record requirements were for compliance with the authorizing statute.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct an effective date; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 41:200. Manufacturers report.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT  
CABINET: Board of Medical Licensure: Board

201 KAR 9:016. Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances. Mike Rodman, executive director; Julie Swindler, MD, bariatric expert; and Lloyd Vest, general counsel, represented the board.

In response to a question by Senator Bowman, Dr. Swindler stated that body fat of thirty (30) percent or more for women and twenty-five (25) percent or more for men constituted obesity pursuant to current national guidelines. Ethnicity and gender were also factors in determining the percentages.

A motion was made and seconded to approve the following amendments to Section 4: (1) to clarify what percentage of body fat is considered normal; and (2) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Commission: Board

201 KAR 11:220. Errors and omissions insurance requirements. Angela Evans, assistant attorney general, and

Shelly Saffran, administrative director, represented the board.

In response to questions by Co-Chair Harris, Ms. Saffran stated that approximately 12,000 active licensees were affected by this administrative regulation. Insurance fees would be covered by the real estate agent or broker. Ms. Saffran stated that the real estate industry supported this administrative regulation, which protected consumers. The amendment clarified board procedures.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 for clarity; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Speech-Language Pathology and Audiology: Board

201 KAR 17:012. Requirements for licensure. Robin Harris, board member, and Michael West, assistant attorney general, represented the board.

In response to a question by Senator Bowen, Mr. West stated that these administrative regulations clarified questions on the form incorporated by reference.

201 KAR 17:030. License fees and renewal requirements.

201 KAR 17:034. Requirements for licensure as a speech-language pathology assistant.

201 KAR 17:036. Requirements for licensure for an audiologist.

Board of Licensed Diabetes Educators: Board

201 KAR 45:001. Definitions for 201 KAR Chapter 45. Matt James, assistant attorney general, and Larry Smith, board member, represented the board.

In response to a question by Co-Chair Harris, Mr. Smith stated that these administrative regulations established a new diabetes educator licensure program, provided for different types of diabetes educators, and established a fee structure for the program.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 45:070. Application procedures for current practitioners.

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

201 KAR 45:100. Fees.

In response to a question by Co-

Chair Harris, Mr. Smith stated that this administrative regulation established fees lower than the maximums allowed by the authorizing statute.

201 KAR 45:110. Supervision and work experience.

A motion was made and seconded to approve the following amendments: 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.

201 KAR 45:120. Renewal, reinstatement, and inactive status.

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

201 KAR 45:130. Continuing education.

In response to a question by Co-Chair Harris, Mr. Smith stated that Kentucky was the first state to establish this program; therefore, comparison with other states' requirements was not possible. Some national associations required more continuing education hours than those established in this administrative regulation.

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

201 KAR 45:140. Code of ethics.

201 KAR 45:150. Complaint procedures.

A motion was made and seconded to approve the following amendments: (1) to establish a definitions section for clarity; and (2) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 45:160. Scope of practice.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a relevant statutory citation; and (2) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Fish

301 KAR 1:150. Waters open to commercial fishing. Steven Dobey, program coordinator, bear program; Benjy Kinman, deputy commissioner; and David Wicker, counsel, represented the department.

In response to a question by Co-Chair Harris, Mr. Kinman stated that Lake Nolan and Rough River were not included

in this amendment because commercial fishing was not taking place on those waterbodies.

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

301 KAR 1:201. Recreational fishing limits.

In response to a question by Co-Chair Harris, Mr. Kinman stated that each waterbody was having fishing requirements changed for different reasons. The department's intent was to promote and maintain recreational fishing.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 5, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and quota hunts.

In response to a question by Co-Chair Bell, Mr. Kinman stated that elk licenses in the expanded Knott County EMU were entered in the late draw. A redraw would be done from that subset.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, 6, 8, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:300. Black bear seasons and requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 13 for consistency. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Technical and Administrative Support: General Administrative Procedures

418 KAR 1:010. Definitions for 418 KAR Chapter 1. Richard K. Kessler, PhD, chair, and Zeb Weese, environmental biology consultant, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:040. Grant applications.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:050. Procedures for acquisitions of land.

A motion was made and seconded to approve the following amendments: to amend Section 3 to establish that, if the requirements of an agreed upon Memorandum of Agreement have been met, then an extension of the deadline for acquisition may be granted by the board. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:999 & E. Corrections secured policies and procedures. Amber Arnett, staff attorney, represented the department.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

Kentucky Law Enforcement Council: Council

503 KAR 1:161. Repeal of 503 KAR 1:160. Dana M. Todd, assistant general counsel, represented the council.

Department of Criminal Justice Training: General Training Provision

503 KAR 3:091. Repeal of 503 KAR 3:090 and 503 KAR 3:100.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver License: Driver Improvement

601 KAR 13:025. Point system. Ann D'Angelo, assistant attorney general; Kim Jenkins, legislative liaison; and Todd Shipp, senior counsel, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add 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 4, 6, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics. Chad Collins, general counsel; Amy Peabody, assistant

general counsel; and Julian Tackett, commissioner, represented the Kentucky High School Athletic Association.

In response to a question by Senator Bowen, Mr. Tackett stated that the amendments to this administrative regulation would be implemented in 2014. Schools had a year to prepare for the new requirements. Stakeholders had been informed of the changes, which were well-received by school administrators.

In response to a question by Co-Chair Bell, Mr. Tackett stated that the association worked with stakeholders to develop the committee amendment to this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Section 2 to specify that a student who has participated at the high school level prior to the 2014-2015 school year is exempt from the requirement to be enrolled in at least grade seven (7); (3) to amend Section 6 to add and update forms; (4) to amend Sections 2, 3, and 5 to comply with the drafting and format requirements of KRS Chapter 13A; and (5) to amend Section 3 to: (a) add relevant citations to KRS 156.070 and 160.380; (b) establish sports medicine requirements for the middle school level; (c) establish that the Middle School Athletics Advisory Committee shall be comprised of at least three (3) middle school representatives from each supreme court district, as well as three (3) at-large representatives; (d) require recommendation for improvements to and participation in middle school interscholastic activities; (e) require the provision of educational materials; (f) establish scrimmage and contest requirements; (g) establish that limitation requirements shall not apply to post-season activities; (h) establish that middle schools may compete against combined elementary or middle school teams, if done in accordance with this administrative regulation; (i) clarify that these requirements shall not prohibit a school or school district from choosing to join a conference or association that has developed rules for a sport to satisfy the requirements of this administrative regulation; (j) clarify provisions; and (k) specify that the Middle School Athletics Advisory Committee is to report "not less than annually" to the commissioner of the KHSAA. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance

787 KAR 1:090. Unemployed worker's reporting requirements. Dustin R. Adams, director, Division of Unemployment, and Clay Lamb, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 6, and 8 to comply



with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Department of Alcoholic Beverage Control: Licensing

804 KAR 4:400 & E. ABC basic application form incorporated by reference. Trey Hieneman, legislative liaison, and Steve Humphress, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to change the edition date of the material incorporated by reference; and (2) to amend the basic application form to: (a) add input and review dates for ABC staff; (b) add a question relating to application for a Transitional License; (c) clarify basic contact information to require a home address (and also an employer identification number (EIN) if the applicant is not a U.S. citizen); (d) add signature lines for administrators issuing a transitional license; and (e) require the applicant to submit the applicant's name and address upon applying for local ABC approval. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410 & E. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to change the edition dates of the material incorporated by reference; (2) to amend the Special Agent/Solicitor, Out-of-State Producer/Supplier of Distilled Spirits/Wine, Out-of-State Producer/Supplier of Malt Beverage Application form to delete a question about registering with the Revenue Cabinet because it was already addressed by statute; (3) to amend the Special Temporary License Application to: (a) clarify basic contact information to require a home address (and also an employer identification number (EIN) if the applicant is not a U.S. citizen); (b) add input and review dates for ABC staff; and (c) require the applicant to submit the applicant's name and address upon applying for local ABC approval; and (4) to amend the Supplemental License Application to: (a) add input and review dates for ABC staff; and (b) require the applicant to submit the applicant's name and address upon applying for local ABC approval. Without objection, and with agreement of the agency, the amendments were approved.

**ENERGY AND ENVIRONMENT CABINET:** Public Service Commission: Utilities

807 KAR 5:009. Repeal of 807 KAR 5:003. Stephanie Bell, deputy executive director, and Jerry Wuetcher, staff attorney, represented the commission.

In response to a question by Senator Bowen, Ms. Bell stated that changes to these administrative regulations were to revise procedures. The program itself was

not new.

807 KAR 5:011. Tariffs.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 5, 6, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:067. Purchased water adjustment for investor-owned utilities.

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 3 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:068. Purchased water adjustment for water districts and water associations.

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 1, 3, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:075. Treated sewage adjustment for water districts and water associations.

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 1, 3, 5, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Elevator Safety

815 KAR 4:030 & E. Elevator contractor licensing requirements. Michael Davis, general counsel, and George Tokarchick, elevator inspector, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 for clarity; and (2) to amend Section 8 and the Elevator Contractor License Application to: (a) change the edition date; (b) conform the form's photograph requirements to those established in this administrative regulation; and (c) to update the agency's address. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:040 & E. Elevator mechanic licensing requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Department for Public Health: Division of Maternal and Child Health: WIC Program

902 KAR 18:011. Definitions for 902 KAR Chapter 18. Carlene Egbert, program investigator officer, and Fran Hawkins, branch manager, represented the cabinet.

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

902 KAR 18:021. Eligibility, certification periods, and time frames for processing applicants.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify what constitutes sufficient proof of residence, identity, and household income; and (2) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 18:031. Participant abuse.

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

902 KAR 18:040. Fair hearing procedures for participants.

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

902 KAR 18:050. Vendor authorization criteria.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to require retailers to comply with the Kentucky WIC Manual for Applying Retailers; (2) to amend Section

2 to require authorized vendors to comply with the Manual for Contracted WIC Vendors; and (3) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 18:061. Vendor violations and sanctions.

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

902 KAR 18:071. Participant access determination and civil money penalty.

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

902 KAR 18:081. Local agency and vendor hearing process and administrative appeal process.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 18:090. High risk criteria.

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

Kentucky Early Intervention System

902 KAR 30:001. Definitions for 902 KAR Chapter 30. Julie Brooks, health program administrator, and Paula Goff, Part C coordinator, represented the cabinet.

902 KAR 30:110. Point of entry and service coordination.

A motion was made and seconded to approve the following amendments: to amend Section 2 for clarity. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 30:120. Evaluation and

eligibility.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 5 to incorporate by reference the “established risk conditions.” Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 30:130. Assessment, service planning, and assistive technology.

902 KAR 30:150. Personnel qualifications.

902 KAR 30:160. Covered services.

902 KAR 30:180. Procedural safeguards.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 30:200. Coverage and payment for services.

Department for Medicaid Services: Payment and Services

907 KAR 3:225 & E. Specialty intermediate care (IC) clinic service and coverage policies and requirements. Stuart Owen, regulation coordinator, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add definitions of “intellectual disability” and “mental illness”; (2) to amend Section 3 to specify pursuant to what conditions a recipient is eligible to receive specified services; (3) to amend Section 6 to: (a) prohibit the use of prone or supine restraint, corporal punishment, seclusion, verbal abuse, or any procedure that denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility; (b) clarify what services an advanced practice registered nurse may provide in a specialty IC clinic; (c) establish which services shall be reimbursed by the department, rather than a managed care organization; and (d) establish which services shall be included in the scope of physician services; and (4) to amend Sections 1 and 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 3:230 & E. Reimbursement policies and requirements for specialty intermediate care (IC) clinic services.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Commissioner’s Office: Hospital Service Coverage and Reimbursement

907 KAR 10:018. Repeal of 907 KAR 10:017, 907 KAR 10:372, and 907 KAR 10:376.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:040. Procedures for determining initial and continuing eligibility. Elizabeth Caywood, internal policy analyst, represented the cabinet.

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

921 KAR 2:046. Adverse action; conditions.

A motion was made and seconded to approve the following amendments: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 2:050. Time and manner of payments.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Protection and Permanency: Child Welfare

922 KAR 1:450. Eligibility confirmation for tuition waiver.

The following administrative regulations were deferred to the October 8, 2013, meeting of the subcommittee:

GENERAL GOVERNMENT CABINET: Board of Hairdressers and Cosmetologists: Board

201 KAR 12:020. Examination.

201 KAR 12:040. Apprentices; ratio to operators.

201 KAR 12:045. Apprentice, nail technician, esthetician, and instructor’s licensing.

201 KAR 12:050. Reciprocity for valid licensee.

201 KAR 12:060. Inspections.

201 KAR 12:065. New, relocated and change of owner salons.

201 KAR 12:088. Esthetic course of instruction.

201 KAR 12:100. Sanitation standards.

201 KAR 12:101. Equipment sanitation.

201 KAR 12:120. School faculty.

201 KAR 12:125. Schools’ student administrative regulations.

201 KAR 12:176. Repeal of 201 KAR 12:175, 201 KAR 12:200, and 201 KAR 12:210.

201 KAR 12:180. Hearing procedures.

201 KAR 12:190. Investigations and complaints.

201 KAR 12:260. License fees, examination fees, renewal fees, restoration fees and miscellaneous fees.

201 KAR 12:270. Threading practice.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

Department for Natural Resources: Division of Mine Reports: Bond and Insurance Requirements

405 KAR 10:090 & E. Production fees.

405 KAR 10:201E. Repeal of 405 KAR 10:200.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Kentucky Health Benefit Exchange: Health Benefit Exchange

900 KAR 10:010 & E. Exchange participation requirements and certification of qualified health plans and qualified dental plans.

900 KAR 10:050 & E. Individual Agent or Business Entity Participation with the Kentucky Health Benefit Exchange.

Department for Medicaid Services: Medicaid Services

907 KAR 1:563. Medicaid covered services appeals and hearings unrelated to managed care.

The subcommittee adjourned at 3 p.m. until October 8, 2013 at 1 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the October Meeting October 8, 2013

### Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 8, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Joe Bowen, Perry B. Clark, and Sara Beth Gregory; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Travis Powell, Council on Postsecondary Education; Alicia Sneed, Education Professional Standards Board; Greg Wells, Michael West, Board of Licensure for Long Term Care Administration; Charles Lykins, Kentucky Board of Hairdressers and Cosmetologists; Larry Disney, Jim Grawe, Kentucky Real Estate Appraisers Board; Ron Brooks, Margaret Eversole, Karen Waldrop, Kentucky Department of Fish and Wildlife Resources; Steve Hohmann, Keith Smith, Department for Natural Resources; Amy Barker, Dana Todd, Justice and Public Safety Cabinet; Godwin Onodu, Todd Shipp, Transportation Cabinet; Marc Guilfoil, Susan Speckert, Kentucky Horse Racing Commission; Carrie Banahan, Stephanie Brammer-Barnes, Al Ervin, Eric Friedlander, William Nold, Cabinet

for Health and Family Services; Gary Fletcher, Travis Fletcher, Sunny Ridge Racing; Gabe Prewitt, Kentucky Harness Horseman’s Association; James Aneszko, Home Instead Senior Care; and Harold Barlow, Citizen.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 8, 2013, and submits this report:

Administrative Regulations  
Reviewed by the Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:020. Private college licensing. Travis Powell, general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 7 to comply with the drafting requirements of KRS 13A.222(4)(b). Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION PROFESSIONAL STANDARDS BOARD: Administrative Certificates

16 KAR 3:080. Career and technical education school principals. Alicia A. Sneed, director of legal services, represented the board.

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 1 for clarity.

Alternative Routes to Certification

16 KAR 9:080. University-based alternative certification program.

In response to questions by Co-Chair Harris, Ms. Sneed stated that this administrative regulation clarified mentoring requirements for the university-based alternative certification process. For alternative certification, a minimum of six (6) hours per year during the three (3) year program was required.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add statutory citations; and (2) to amend Sections 3, 4, and 7 to comply with the drafting requirements of KRS Chapter 13A.

GENERAL GOVERNMENT CABINET: Board of Licensure for Long-Term Care Administrators: Board

201 KAR 6:020. Other requirements for licensure. Greg Wells, chair, and Michael West, assistant attorney general, represented the board.

In response to questions by Co-Chair Bell, Mr. Wells and Mr. West stated that these administrative regulations established requirements for individual licensed administrators, but it was not



required that individuals seek licensure. The changes allowed a temporary permit to be transferred to another facility within six (6) months and applied to licensed administrators rather than facilities.

Senator Bowen welcomed his constituent, Mr. Wells.

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 Section 1 for clarity; (3) to amend Section 1(2) to increase the minimum scaled score needed on the required written examination from seventy (70) percent to seventy-five (75) percent; (4) to revise material incorporated by reference to match the requirements in this administrative regulation; (5) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (6) to amend Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:030. Temporary permits.

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.

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 1 to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:050. Licensure by endorsement.

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 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (3) to revise material incorporated by reference to match the requirements in this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:060. Fees.

A motion was made and seconded to approve the following amendments: to amend Section 7 for clarity. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:070. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 3, 4, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:080. Code of ethics.

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; and (3) to amend Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:090. Complaint process.

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

Board of Hairdressers and Cosmetologists: Board

201 KAR 12:020. Examination. Charles Lykins, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 5, 6, 7, 9, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:040. Apprentices; ratio to operators.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A.

Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:045. Apprentice, nail technician, esthetician, and instructor's licensing.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:050. Reciprocity for valid licensee.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to: (1) cross-reference applicable statutory requirements; and (2) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:060. Inspections.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:065. New, relocated and change of owner salons.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 5, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) incorporate by reference an updated application form. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:082. School's course of instruction.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, 6, 9, 11, 12, 14, 15, 17, and 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:083. Educational requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:088. Esthetic course of instruction.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:100. Sanitation

standards.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 5, 6, 9, 11, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:101. Equipment sanitation.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:120. School faculty.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 5, 6, 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:125. Schools' student administrative regulations.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4, 6, 9 through 14, 16, 17, and 19 through 24 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:150. School records.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:176. Repeal of 201 KAR 12:175, 201 KAR 12:200, and 201 KAR 12:210.

201 KAR 12:180. Hearing procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:190. Investigations and complaints.

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 5, 8, and 9 to comply with the drafting and formatting

requirements of KRS Chapter 13A; and (3) create a new Section 10 to incorporate by reference the complaint form. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:260. License fees, examination fees, renewal fees, restoration fees and miscellaneous fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Section 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:270. Threading practice.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

201 KAR 30:040. Standards of practice. Larry Disney, executive director, and Jim Grawe, assistant attorney general, represented the board.

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

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Fish

301 KAR 1:132. Sale of live bait. Ron Brooks, director of fisheries; Margaret Everson, assistant attorney general; and Karen Waldrop, director of wildlife, represented the department.

In response to a question by Senator Bowen, Mr. Brooks stated that this administrative regulation and 301 KAR 1:152 prohibited commercial fishermen from moving Asian carp to other areas of water.

In response to questions by Co-Chair Harris, Mr. Brooks stated that the department was making headway in the control of Asian carp encroachment, but there was still a lot of work to be done. Asian carp was popular in China, and the department hoped that the domestic market would grow.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:152. Asian Carp and Scaled Rough Fish Harvest Program.

A motion was made and seconded to approve the following amendments: to

amend Sections 3 and 4 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:049. Small game and furbearer hunting and trapping on public areas.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting.

A motion was made and seconded to approve the following amendments: 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.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Reports: Permits

405 KAR 8:010. General provisions for permits. Steve Hohmann, commissioner, and Keith Smith, executive director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.222; and (3) to amend Sections 2 through 6 and 8 through 26 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Bond and Insurance Requirements

405 KAR 10:001 & E. Definitions for 405 KAR Chapter 10.

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

405 KAR 10:015. General bonding provisions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 4, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 10:070 & E. Kentucky reclamation guaranty fund.

A motion was made and seconded to approve the following amendments:

to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 10:080 & E. Full-cost bonding.

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 3 and 4 to comply with the drafting requirements of KRS Chapter 13A; and (3) to revise the material incorporated by reference to conform to the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 10:090 & E. Production fees.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE for consistency among administrative regulations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to conform with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 10:201E. Repeal of 405 KAR 10:200.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex. Amy Barker, assistant general counsel, represented the department.

In response to questions by Co-Chair Harris, Ms. Barker stated that this administrative regulation contained nonsecured department policies for the Roederer Correctional Complex. This year's changes, among other changes, included: (1) amendments to fire prevention and evacuation procedures; (2) regulating fishing on facility lakes; (3) revisions to holding cell guidelines; (4) changes to medical provisions for compliance with the authorizing statute; and (5) clarifications to visiting rules.

Kentucky Law Enforcement Council: Council

503 KAR 1:180. Firearms qualification for certified peace officers. Dana M. Todd, assistant general counsel, represented the council.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Vehicle Licensing: Motor Vehicle Tax

601 KAR 9:200. Registration and titling of rebuilt or salvage motor vehicles. Kim Jenkins, legislative liaison; Godwin Onodu, assistant director; and Todd Shipp, special assistant, represented the division.

In response to questions by Co-Chair Harris, Mr. Shipp stated that a confidential

inspection was implemented by law enforcement if there was a discrepancy. A confidential inspection was to investigate the identification numbers on parts of a car not visible under normal circumstances. Almost every individual car part had a part-specific identification number. The purpose was to prevent marketing parts from a stolen vehicle or stolen parts.

Representative Lee stated that a confidential inspection was common and included, for example, areas under seats and behind insulation.

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 Section 1 to add a definition for "confidential inspection" for clarity; and (3) to amend Sections 2 through 7 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Harness Racing

811 KAR 1:215. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund. Marc Guilfoil, commissioner, and Susan Speckert, general counsel, represented the commission. Gabe Prewitt, executive secretary, Kentucky Harness Horsemen's Association, appeared in support of these administrative regulations. Gary Fletcher, owner, Sunny Ridge Racing, appeared in opposition to these administrative regulations.

Mr. Fletcher stated that breeding rule changes allowed any breeder to qualify for the incentive fund by breeding a mare if the mare was in Kentucky for at least six (6) months. These provisions would create a burden for small breeders who would not be able to compete with the larger horse farms.

Co-Chair Bell stated that the rule change seemed to help small breeders by bringing more mares into Kentucky. More mares in Kentucky would add funds to the Breeders' Incentive Fund. In response, Mr. Fletcher stated that because his horses were on mine reclamation land, he could not board mares. His contention was that most of the Breeders' Incentive Fund money would go to out-of-state horse farms. Large horse farms would be helped more than small breeding operations. Mr. Prewitt responded that Kentucky had already lost its stallions to other states. These administrative regulations were intended to bring mares into Kentucky. Mr. Guilfoil responded that small breeders were helped by these administrative regulations because of provisions that made each foal more valuable.

In response to a question by Co-Chair Bell, Mr. Guilfoil stated that these requirements would not be enforced until



2017; however, foals born in 2014 would be impacted. Mr. Fletcher responded that dual eligibility of foals helped, but did not level the playing field for large and small breeders. He added that funds should not be sent out of state.

Co-Chair Harris urged the commission to work with Mr. Fletcher to address his concerns.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 1, 2, 3, 6, 9, 10, 18, 24, 26, and 28 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:220. Harness racing at county fairs.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 6, 20, and 24 to comply with the drafting and formatting 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 the Kentucky Health Benefit Exchange: Health Benefit Exchange

900 KAR 10:010 & E. Exchange participation requirements and certification of qualified health plans and qualified dental plans. Carrie Banahan, executive director, and William Nold, deputy executive director, represented the cabinet.

In response to a question by Senator Gregory, Ms. Banahan stated that the cabinet had statutory authority for these administrative regulations from state statutes and the governor's executive order. The statutory authority was stated in the NECESSITY, FUNCTION, AND CONFORMITY paragraph. KRS 194A.050(1) authorized the cabinet to promulgate administrative regulations if necessary to receive federal funding. In response, Senator Gregory stated that she did not believe the cabinet had valid statutory authority for these administrative regulations, and the governor's executive order was not statutory authority.

In response to questions from Senator Harris, Mr. Nold stated that privacy concerns regarding electronically submitted data were based on Web site information that was erroneously posted. Only authorized persons, such as agents, would have access to the information. Ms. Banahan stated that this program complied with federal privacy and security guidelines.

Senator Bowen stated that he was concerned that there did not seem to be statutory authority for these administrative regulations. He was also concerned regarding the governor's attempt to make sweeping policy via an executive order.

A motion was made by Senator Gregory, seconded by Senator Bowen, to find these administrative regulations deficient based on lack of statutory authority. A roll call vote was conducted. With Senators Harris, Bowen, and Gregory voting to find these administrative regulations deficient and Senator Clark and Representative Lee voting not to find these administrative regulations deficient, the motion did not carry. Five (5) votes to find these administrative regulations deficient were required.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend Sections 1 through 4, 6 to 8, 13 through 16, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend the form incorporated by reference to change a filing deadline to match the deadline stated in the body of the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 10:020 & E. Kentucky Health Benefit Exchange Small Business Health Options Program.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to create a new Section 11 to incorporate by reference two required application forms. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 10:050 & E. Individual Agent or Business Entity Participation with the Kentucky Health Benefit Exchange.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of the Inspector General: Office

906 KAR 1:190. Kentucky Applicant Registry and Employment Screening Program. Stephanie Brammer-Barnes, policy analyst; Al Ervin, program manager; and Eric Friedlander, deputy secretary, represented the cabinet. Harold Barlow, parent of a program client, appeared in support of this administrative regulation. James Aneszko, vice president and business owner, Home Instead Senior Care, appeared in opposition to this administrative regulation.

In response to questions by Representative Lee, Mr. Friedlander stated that this administrative regulation implemented the corresponding federal program. This administrative regulation provided for a background check for crimes in other states, in addition to the

Kentucky background check. Due process was provided in that crimes in other states had already been subject to due process and there was an appeal process for a misidentified person or for a person who had been rehabilitated. After seven (7) years, a person who had been rehabilitated may request a rehabilitation review panel, which would consider mitigating factors in order to determine if the employment prohibition should be waived. Statutory authority provided for this additional background check as an option only. Statutory revision was required to make this program mandatory. Ms. Brammer-Barnes stated that this administrative regulation did not create a new registry, but allowed access to other existing registries.

Mr. Barlow stated that he had a severely disabled son who was assaulted as a client in the Supports for Community Living (SCL) program. His son was autistic and nonverbal. Because he was nonverbal, law enforcement did not address his assault. The cabinet did not address the assault. His son had been left alone several times, despite the fact that his son had a documented seizure disorder. A person who could assault someone like his son should not again be able to work with vulnerable citizens. Mr. Barlow supported this administrative regulation.

Mr. Aneszko stated that this administrative regulation would have negative effects on the elderly because there would be cost increases, especially if this administrative regulation became mandatory rather than optional. If funding ran out and the background check was mandatory, rather than optional, costs would be doubled and would create obstacles to an already insufficient long-term care workforce. Additionally, the added background check would delay screening, which may cause a delay in hiring to meet unexpected care needs.

In response to a question by Representative Lee, Mr. Aneszko stated that the current cost for a background check was twenty (20) to thirty (30) dollars. Cost including the new background check was approximately sixty-three (63) dollars.

Representative Lee stated that the sixty-three (63) dollar sum seemed small compared to the protection of vulnerable individuals. The long-term care industry had promised the General Assembly that improvements in care would be made; however, improvements did not seem to have been made. Clients in long-term care facilities were virtually captives, in that they could not leave if they were dissatisfied with the level of care provided. In response, Mr. Aneszko stated that the long-term care industry wanted effective background checks and full protection for clients.

In response to a question by Representative Lee, Mr. Aneszko stated that he could not agree to mandatory background checks if the industry was granted a rate increase because he did not represent a facility. Instead, services were

provided in the clients' homes. Funding came from clients, and ninety-five (95) percent of clients were private payors; therefore, a rate increase request was not really at issue.

Mr. Friedlander stated the cabinet's apology to Mr. Barlow for what happened to his disabled son. The cabinet agreed to ask the General Assembly to make the additional background check mandatory, rather than optional, during the 2014 Regular Session of the General Assembly.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that the screening requirements apply to cabinet staff and prospective employees hired on or after the regulation's effective date; (2) to delete Sections 12 and 13(3) and (4) because the provisions exceed the scope of this administrative regulation; and (3) to amend Sections 1, 2, 6, 13, and 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the November 12, 2013, meeting of the Subcommittee:

TOURISM, ARTS AND HERITAGE CABINET: State Fair Board: Fairgrounds and Exhibition Center

303 KAR 1:042. Repeal of 303 KAR 1:041.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:050. Luther Luckett Correctional Complex.

TRANSPORTATION CABINET: Motor Vehicle Commission: Commission 605 KAR 1:050. Dealer and salesman.

605 KAR 1:060. Temporary off-site sale or display event.

605 KAR 1:070. Change of ownership.

605 KAR 1:090. Business names.

605 KAR 1:130. Procedures.

605 KAR 1:190. Motor vehicle advertising.

605 KAR 1:210. Nonprofit motor vehicle dealer requirements and licensing.

EDUCATION AND WORKFORCE DEVELOPMENT: Kentucky Board of Education: Department of Education: Office of Instruction

704 KAR 3:390. Extended school services.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:080. Candidate physical ability test.

ENERGY AND ENVIRONMENT

CABINET: Public Service Commission: Utilities

807 KAR 5:069. Filing requirements and procedures for federally funded construction project of a water association, a water district, or a combined water, gas, or sewer district.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:027. Repeal of 902 KAR 20:021 and 902 KAR 20:026.

Department for Medicaid Services: Division of Administration and Financial Management: Medicaid Services

907 KAR 1:563. Medicaid covered services appeals and hearings unrelated to managed care.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Administration and Financial Management: Institutional Care

908 KAR 3:050. Per diem rates.

908 KAR 3:060. “Means test” for determining patient liability.

Other Business: Co-Chair Harris introduced the Subcommittee’s newest legislative analyst, Carrie Klaber. Carrie worked for the past five (5) years with the Interim Joint Committee on Licensing and Occupations. She did her undergraduate work at the University of Kentucky and earned her Juris Doctorate from Chase Law School. The Subcommittee welcomed Ms. Klaber.

The Subcommittee adjourned at 2:50 p.m. until November 12, 2013 at 1 p.m.

## TASK FORCE ON THE UNIFIED JUVENILE CODE

Minutes of the 5th Meeting of the 2013 Interim September 25, 2013

### Call to Order and Roll Call

The 5th meeting of the Task Force on the Unified Juvenile Code was held on Wednesday, September 25, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Glenda Edwards, Steven Gold, Teresa James, Lisa P. Jones, Bo Matthews, Mary C. Noble, Pamela Priddy, and John Sivley.

Guest Legislator: Rep. Jimmie Lee.

Guests: Erik Jarboe for LearNet; Margo Figg for the Department for Juvenile Justice; Chris Figg, student; Marty White and John Cooper for KASS; Gerald Dodge, Court Designated Worker; Joan Clark, Anderson County Jail; Terry Carl, Kenton County Jail; and Beth Porter for KYSEED/KICC.

LRC Staff: Matt Trebelhorn, Jon Grate, Jessica Causey, Jonathan Scott, Mike Clark, and Cindy Smith.

### Approval of Minutes

A motion was made by Commissioner Davis, seconded by Mr. Gold, and approved by voice vote to approve the minutes of the September 4, 2013 meeting.

### Juvenile Corrections System Assessment, Data, and Research Presentation

The only item on the agenda was a presentation on the juvenile corrections system assessment, data, and research by Pamela Lachman, Senior Associate, Research, Public Safety Performance Project; Sonja Hallum, Senior Associate, State Policy, Public Safety Performance Project; Gabriella Priest, Associate, Crime and Justice Institute, Community Resources for Justice; and Ted Martinez, Senior Associate, Crime and Justice Institute, Community Resources for Justice. The presentation began with a report on the Kentucky Juvenile Justice System. Ms. Priest said that offense classifications for youth are status offenders, public offenders, and youthful offenders. Agencies serving juvenile justice involved youth are the Administrative Office of the Courts (AOC), the Department for Juvenile Justice (DJJ), and the Cabinet for Health and Family Services (CHFS).

Established in 1996, DJJ is responsible for prevention programs for at risk youth, court intake, pretrial detention, residential placement and treatment services, probation, community aftercare, reintegration programs, and youth awaiting adult placement or court. DJJ employs about 1,300 people and has a budget for FY 13 of \$102,666,600, with 55 percent spent on out of home facilities and 21 percent spent on community supervision and services. Secure facilities under DJJ include youth development centers, boot camps, and regional juvenile detention centers. Non-secure facilities include group homes, day treatment programs, and contracted private providers.

CHFS is home to most of the state’s human services and health care programs. The Cabinet serves juvenile justice involved youth in the community primarily through the Department for Behavioral Health, Developmental and Intellectual Disabilities, and the Department for Community Based Services.

AOC is the operations arm for the state court system. Within AOC, the Department of Family and Juvenile Services operates the Juvenile Services branch, with 157 staff, and a budget of \$8,305,300. Ms. Priest discussed maps that showed a breakdown of the status and public offender systems from offenses to court or disposition.

Ms. Hallum discussed what works in juvenile justice research. She identified key principles in reducing juvenile offender recidivism and controlling costs. These include: using validated risk and needs assessment tools; focusing resources on juvenile offenders who are a higher risk to reoffend; matching

placement, supervision, and treatment to juvenile offenders’ risks and needs; blending treatment and monitoring; and implementing evidence-based programs. Ms. Hallum also discussed the cost-benefit analysis of evidence-based programs and showed that there are many different programs that can address a variety of issues.

In response to a statement by Representative Tilley, Ms. Hallum agreed that it is important to look at return on investment with all evidence-based programs.

Ms. Lachman discussed status offender referrals and placements. She said the majority of status offense cases are not filed in court, with only about 20 percent referred to court. Most status offenses related to school. In 2012, 58 percent of status petitions filed in court were school related. Different status charges are school related, with 82 percent of the 2012 school related complaints being for habitual truancy. The alternative to the complaint is the Truancy Diversion Program (TDP). Of the status referrals in 2012, 41 percent were screened out in the pre-complaint phase through TDP. According to 2012 data, 13 percent of youth in DJJ detention are status offenders. Public offenders make up the other 86 percent. Status contempt cases also stay longer in detention and many status offenders are committed and probated to the Cabinet.

In response to a question by Ms. Priddy, Ms. Lachman said 9,100 cases were screened out through the pre-complaint process through TDP. Of that 9,100, only 500 of those become complaints. The cases in counties without the TDP program do not get the option to go through that phase. They are either able to be screened out through the other CDW pre-complaint opportunities, or they become a complaint. Ms. Lachman said she can identify counties that do have the TDP program, and those that do not, and see if there are any meaningful differences in the number of cases that become status complaints of the referrals.

Senator Westerfield and Ms. Dudgeon noted that in regard to the truancy issue with tardies, it would be helpful to see how Kentucky stacks up against other states with their definition of truancy and tardy.

In response to a question by Ms. Edwards, Ms. Lachman said she was not able to prepare data the same way on children that go to detention on contempt per county, but she will work on that. She was able to use detention data to show how many cases come into detention either pre-adjudication or post-adjudication were contempt, and it was a vast majority of status offenses.

Ms. Hallum discussed complaints, dispositions to DJJ, placement and supervision, and discharge relative to public offenders. She reported that there has been a similar decline in public complaints and the out of home population. A quarter of public complaints

are occurring at schools. Of school-related public complaints, 78 percent are for misdemeanors, while 71 percent of non-school related charges are misdemeanors. The majority of felony charges are Class D, and the majority of misdemeanor charges are Class A. She also noted that because of a lack of clarity in the statutes, prosecutors feel as though there is no discretion to decline to file charges. In regard to dispositions to DJJ, Ms. Hallum said that that Youth Level of Service (YLS) is available at disposition and used at the discretion of judges, but not validated on Kentucky juvenile recidivism outcomes. Class A misdemeanors and Class D felonies are the most common offenses disposed to DJJ. Theft and assault are the most common Class D felonies and Class A misdemeanors.

In response to a question by Commissioner Davis, Ms. Lachman said the data regarding public complaints at schools is based on initial charges. She said the Project tried to look at how many of the charges were amended down in the court process, but was unable due to inconsistencies in coding.

In response to a question by Senator Westerfield, Ms. Hallum explained the lack of clarity in KRS 635.010, section 1A. There is reference to the authority of the county attorney to elect not to file, but it is not clear if that discretion is granted only if there is not reasonable cause to file. This refers to KRS.

In response to a question by Ms. Priddy, Commissioner James said 859 kids that are committed to the Cabinet are status offenders. Many come in as status offenses, but may also involve public offenses or DNA cases. These are the children most likely to bounce back and forth between the DJJ and the Cabinet. Statutorily, the Cabinet does the probated status offenders.

In response to a question by Senator Westerfield, Ms. Lachman said the controlled substance share of the felonies is in the top ten, but not in the top five. She said that the current data does not allow a determination as to what substances are more prevalent than others.

Ms. Lachman discussed placement options. She said the majority of juveniles are placed out of home, with misdemeanants and violators being the majority in each placement. A large proportion of lower level offenders are placed out of home. The length of time juveniles are being held in out of home facilities has increased over time. Misdemeanor and felony offenders spend a similar amount of time out of home. There is little difference in the prior criminal history of offenders regardless of placements.

Ms. Hallum discussed supervision and discharge. She reported that probation violations are the most common disposition prior to out of home placement. Most juveniles who are placed out to home for violations have fewer than two prior violations. There is not a system of



graduated sanctions for violations. There are no clear timelines for juveniles to be discharged from supervision. Juveniles are committed to DJJ indefinitely until they are 18 years of age, increasing the likelihood they will have a violation at some point and be placed out of home.

Mr. Martinez discussed services in the community. He said that community mental health centers play an integral role in Kentucky, with 14 regional centers serving 120 counties. There are also substance abuse treatment services in the community. A total of 261 youth were served with adolescent outpatient substance abuse treatment in FY 13. He noted that there are insufficient aftercare services available for DJJ committed youth released to the community.

In response to a question by Representative Tilley, Commissioner James announced that yesterday was a pivotal day in Kentucky. There are several things on the horizon in Kentucky that will affect some of the issues and challenges of accessing treatment. The Health Benefit Exchange will go live on October 1, 2013. Eligibility for Medicaid benefits will change January 1, 2014, which will cover people up to 138 percent of the federal poverty level. With both of these items, over 600,000 uninsured Kentuckians will be eligible for health care coverage either through Medicaid or through the purchasing of insurance coverage through the exchange. Also, as of January 1, 2014, every plan in Kentucky will have a substance abuse treatment benefit attached to it. She added that in the next week, the Department for Medicaid Services plans to file amendments to the Medicaid State Plan in Kentucky, subject to CMS approval, which will include expanding the behavioral health and substance abuse treatment services available in the Medicaid State Plan to kids and adults receiving Medicaid benefits.

In response to a question by Ms. Edwards, Ms. Lachman said she looked at the length of time in community placement or out of home placement, and the total length of the case that these violators had and discovered that there is a very stark difference between probation violators that remain in the community and those who end up in longer out of home placement or detention. For youth who stay in the community, the average length of their case is lower than the average of 15 months. Youth placed out of home have dramatically longer stays, closer to 21 months on average. Ms. Hallum added that it is important to consider the average age of the offender coming into the system. The average age at the point of disposition is 15.5 years. When you add the average length of stay onto the age they are starting with, they are close to aging out of the system.

In response to a question by Ms. Edwards, Ms. Hallum said she did not address youthful offenders because the focus is more on juvenile offenses that are in the system, as opposed to those moving

into the adult system.

In response to a question by Mr. Gold, Ms. Hallum said that the basic concept of providing more information to the judicial officer to be able to guide decision making. The concept is that if the risk and needs assessment is complete, and it can be provided to the judicial officer, it will allow them to take into account the risk level to public safety as well as the needs of the offender to better match the intervention that the court is supposing.

In response to a question by Mr. Gold, Ms. Hallum said there is not a good way to capture, more than anecdotally, information on the length of time between the offense and disposition, or the time it takes at each step of the process.

In response to a question by Senator Westerfield, Ms. Lachman said Jefferson County numbers are included for youth disposed to DJJ. For youth who are in Jefferson County, but not disposed to DJJ, they are not. Commissioner Davis added the detention is separate, but all other youth are included from Jefferson County in the data. Representative Tilley added that it may be helpful to pull the data from urban areas from the equation to look at rural areas on their own.

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

## **TASK FORCE ON THE UNIFIED JUVENILE CODE**

### **Minutes of the 6th Meeting of the 2013 Interim**

October 4, 2013

#### **Call to Order and Roll Call**

The 6th meeting of the Task Force on the Unified Juvenile Code was held on Friday, October 4, 2013, at 1:00 PM, in Hopkinsville, Ky. at the Christian County Justice Center. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Commissioner Hasan Davis, Glenda Edwards, Steven Gold, Commissioner Teresa James, Judge Lisa P. Jones, Bo Matthews, Rachel Bingham, in proxy for Justice Mary C. Noble, Bob Carpenter, in proxy for Pamela Priddy, and John Sivley.

Guests: Sonja Hallum, Senior Associate, State Policy, Public Safety Performance Project; Ryan Gies, Deputy Director, Division of Courts and Community Services, Ohio Department of Youth Services; Elizabeth Clarke, President, Juvenile Justice Initiative, Illinois; and Retired Judge George Timberlake, Illinois.

LRC Staff: Matt Trebelhorn, Jessica Causey, and Kathy Miller.

#### **Overview**

Sonja Hallum, Senior Associate, State Policy, Public Safety Performance Project introduced the topics of the meeting. The presentations will be from policy makers in Ohio and Illinois, which have put financial incentives in counties to

provide services to youth.

### **Expanding the Community Continuum for Serving Youth: RECLAIM Ohio, Targeted RECLAIM and Juvenile Justice Reform**

Ryan Gies, Ohio Department of Youth Services, said that in 2000, Ohio had a vision of creating a “community-based service delivery system that is designed to provide appropriate services and supports for youth by matching risk level with the least restrictive program setting.” RECLAIM was rolled out statewide in 1995, and Targeted RECLAIM was created in 2010. RECLAIM is an acronym for Reasonable and Equitable Community and Local Alternatives to the Incarceration of Minors. Ohio has experienced a decrease in population in the Department of Youth Services (DYS) and on parole. Total DYS admissions have dropped 54 percent since Targeted RECLAIM was implemented. While some of the reduction can be explained by a declining population of youths age 10-19, RECLAIM has resulted in notable drops in youth arrests, delinquency cases and felony adjudications.

Mr. Gies detailed results of a study to determine if the reduction in youth adjudications meant the population was being pushed into adult courts. The study showed a decline in Adult Court Transfers by 35 percent from 2007 to 2012, so reform has been successful.

Efforts to enhance the continuum of care for youth in Ohio include the Ohio Youth Assessment System (OYAS), community-based services and programs that go hand in hand with cognitive behavioral therapy, reforming release authority processes and strengthening parole services. OYAS is an assessment process that spans from arrest through discharge from parole. Five tools are used to match youth with effective interventions; they are diversion, detention, disposition, residential, and reentry. Screeners are used to make determinations of appropriate services.

RECLAIM and Targeted RECLAIM work towards keeping youth in their communities and out of correctional facilities. When placement is necessary to ensure community safety, RECLAIM strives for smaller facilities closer to home with programs geared toward behavioral change. In the long term, cost savings associated with RECLAIM programs range from \$11 to \$45 for every dollar spent versus placement in DYS or a Community Corrections Facility.

Targeted RECLAIM focuses on counties with the highest number of DYS admissions and funds evidence based interventions. The programs include residential and non-residential cognitive-behavioral therapy, community based treatment centers, multisystemic therapy, and effective practices in community supervision.

A discussion on funding followed a question from Senator Westerfield. A RECLAIM Advisory Committee was

formed to oversee the funding formulas. Funds are used to provide programs and services to delinquent, unruly and at risk youth through contracted and court-operated programs.

Mr. Gold asked about funding in urban versus rural counties. Mr. Gies replied that more information would be forwarded on that topic, but that every county would be guaranteed \$30,000 to \$50,000 as an incentive to implement the non-mandated programs.

Commissioner James asked what happens to juvenile status offenders. Mr. Gies answered by saying the vast majority of juvenile offenders fit into that category, not felons, and would be recipients of program services.

Ms. Edwards had a question about program and transportation vouchers. Mr. Gies replied that communities answered those questions individually based on need.

### **State and Local Partnerships for JJ Reform**

Elizabeth E. Clarke, J.D., founder and president, Juvenile Justice Initiative of Illinois and the Honorable George Timberlake, former Chief Judge, 2<sup>nd</sup> Judicial Circuit, Illinois, were next on the Task Force agenda. Ms. Clarke and Judge Timberlake presented “One State’s Fiscal Realignment Strategy to Shift Limited Resources to Community Intervention.”

In Illinois, the lack of community-based alternatives for delinquent youth at the county level has prompted counties to rely on the Illinois Department of Juvenile Justice (IDJJ), to provide evaluations or treatment services for delinquent youth at the pre-adjudication phase for youth who have been committed to IDJJ as a sanction. This practice shifted the fiscal burden to the state. To address the issue, the Illinois General Assembly created the Redeploy Illinois program in 2003. Redeploy Illinois has 3 goals: reducing youth commitments to IDJJ for nonviolent offenses, providing community treatment services, and offering cost-effective ways of handling youth crime while maintaining public safety. Initial evaluations showed significant reduction in overall IDJJ commitments, court evaluation referrals and recidivism. The RI program is five times less expensive than IDJJ full commitments. Full results of the evaluation study were discussed.

Judge Timberlake spoke on the commitment to restorative justice. He said a very strong diversion program requires “collaboration, leadership and passion.”

Judge Timberlake described the key components of the early Juvenile Justice Initiative including Kids Courts in Schools and truancy review boards.

Senator Westerfield asked about the recidivism rate of youth who had been committed to the non-secure Redeploy facilities. Judge Timberlake responded that the rate was down to 22 percent from 50 percent.

Redeploy Illinois strives for public safety, fiscal responsibility, and positive

outcomes.

In response to a question from Rachel Bingham about truancy boards, Judge Timberlake said therapeutic appointments can be made immediately. Truancy boards also address base problems such as homelessness and mental health issues in the home.

Further discussion of Truancy boards continued after questions from Judge Jones and Commissioner James. The boards are manned by community volunteers, with notices served by the sheriff and are not statutorily mandated.

A discussion of funding followed a question by Senator Westerfield. The initial budget of \$2,000,000 was offset in the state budget by reductions in state expenditures. Other funding came from Planning Grants.

Ms. Clark said Redeploy Illinois has shown that community-based services for juvenile offenders are generally less costly and more effective than institutional care in correctional facilities. Redeploy funding has increased the availability of community services for juveniles and their families; access to intensive treatment, substance abuse treatment, aggression interruption training and electronic monitoring, allowing judges to ensure community protection without having to commit juveniles to IDJJ.

Senator Westerfield summarized some of the testimony and commented that he is shocked that the average length of stay in a facility for a juvenile varies by less than a month no matter what level of offense they have committed. He believes that most youth need something different and that the Task Force is in place to address the issues.

The 6<sup>th</sup> meeting of the Unified Juvenile Code Task Force was adjourned at 3:15 PM CST.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

October 2, 2013

### Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 2, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Ryan Quarles, and Jonathan Shell.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Biff Baker, and Brian Murphy, Governor's Office of Agricultural Policy; Van Ingram, Office of Drug Control Policy; Heather Wainscott and Amy Andrews, Kentucky Agency for

Substance Abuse Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The September 4, 2013, minutes were approved without objection by voice vote, upon a motion by Senator Parrett and a second by Representative Stone.

### Governor's Office of Agricultural Policy

Mr. Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy, testified about project funding decisions made by the Agricultural Development Board (ADB) during its September meeting.

Mr. Neaveill reviewed funding allocations and provided explanations for approvals the previous month under the County Agricultural Improvement, Deceased Farm Animal Removal, and Shared-use Equipment programs.

GOAP officials elaborated on one project receiving state and local tobacco settlement fund commitments, Morehead State University, which was approved for \$90,000 to build a food technology laboratory and food service area on the Morehead campus. Another project denied funding also prompted some discussion, Barren County Board of Education, which sought \$662,000 in state and county funds to help build one phase of an agricultural exposition center in Barren County.

Responding to Representative Stone, Mr. McCloskey verified that local producers will be able to use the Morehead food lab.

Mr. Thomas told Representative Stone, who asked about any precedent for the Morehead funding commitment, that the University of Kentucky received funds for a similar endeavor. In addition, funds have been approved in the past for certified kitchens, where producers can process their farm-grown foodstuffs. Responding to other committee members' questions, Mr. Thomas said Morehead has a vibrant and growing agricultural program and that the food laboratory will offer instruction on food safety and regulatory requirements.

Responding to Representative Denham and Senator Gibson, who asked some questions about the Barren County denial, Mr. Thomas indicated that the board does not grant funding to boards of education that receive state funds, but has funded school-related projects, such as greenhouses. Senator Gibson indicated that perhaps the board should fund projects from boards of education because there is another source of outside funding available and are recognized for sustaining projects. Later, Senator Webb commented that there is a need to foster agriculture-related activities for youth and provide venues for those activities.

Representative McKee pointed out that some nearby counties, when asked, declined to participate in the Barren County project.

Senator Parrett and

Representative Stone also commented on regions setting priorities and regional competitiveness. Mr. Thomas indicated that the Morehead project was a good example of an undertaking that was regional in scope.

Mr. Thomas also reported on a three-judge panel's ruling in an arbitration hearing regarding some disputed 2003 Master Settlement Agreement payments. The panel ruled in favor of more than 30 cigarette makers in their individual claims against Kentucky and five other states. The companies alleged that Kentucky and other states failed to diligently enforce state tobacco laws during 2003 and were entitled to a refund under the MSA. The judges determined that nine states enforced the provisions. Several other states earlier settled the claims against them.

The GOAP executive director said there are questions regarding the three-judge panel's decision to accept the earlier settlements. He said those settlements went beyond the dictates of the original MSA. Some states have filed motions to have the settlements vacated.

Mr. Thomas cautioned that the ruling could affect the 2014 payment after calculations are made regarding each losing state's liability, but a figure of \$45-\$55 million has been mentioned.

He responded to Representative Stone that an appeal is being considered, but, since the decision was made by an arbitration panel, the decision would be difficult to have overturned.

In continuing discussion, Mr. Thomas pointed out that a reduction of the 2014 MSA payment also would affect the health-related programs that receive the tobacco settlement funds, such as the Kentucky Agency for Substance Abuse Policy (KY-ASAP) an agency whose staff was prepared to testify later in the meeting.

Asked by Co-chair Hornback about any similarity among the six states, Mr. Thomas said he believed Kentucky did as good as or better than some in filing lawsuits against cigarette sellers that violated MSA requirements.

### Kentucky Agency for Substance Abuse Policy (KY-ASAP)

The committee received the annual report from KY-ASAP, with Mr. Van Ingram, Executive Director, and Ms. Heather Wainscott, Branch Manager, Kentucky Office of Drug Control Policy, and Ms. Amy Andrews, KY-ASAP Program Coordinator, appearing before the committee.

According to the report presented by Mr. Ingram, KY-ASAP has continued to evolve since its placement in the Office of Drug Control Policy in 2004. KY-ASAP helps fund some 116 local KY-ASAP boards that exist in 120 counties. The boards, in turn, use the funds to engage in a variety of policy and program initiatives at the local level, centering mostly on combating drug and alcohol abuse, and assisting smoking cessation efforts.

Mr. Ingram responded to several committee member questions, mostly on the drug problem in the state.

Responding to Representative Stone, who commented on the use of the funds in his home county, Mr. Ingram mentioned the need for drug treatment.

He responded to Senator Hornback that forced treatment as a part of the court process can be successful, provided a person stays in a program long enough. He indicated that where one goes and who one associates with can have an impact on a person's recovery from drug use.

Senator Higdon commented that he wished the Marion Adjustment Center, a former private prison, could be reopened as a drug treatment facility.

Commenting on Representative Denham's observations about the growing heroin problem in the state, Mr. Ingram indicated Kentucky has an overall opiate problem. He said he was not surprised that, when the state clamped down on the "pill mills" prevalent in the state, drug users, experienced with intravenous drug use, would turn to heroin. He said there also is an "education problem" with young people, who do not fear the consequences of illicit drug use.

Senator Westerfield, a former assistant commonwealth's attorney, indicated there are some drug offenders who want treatment versus jail time, but when there are not enough facilities offenders "fade away."

Senator Webb commented on an encounter with an admitted heroin user at a jail in her region and suggested that if a person uses the drug, that person is dealing with underlying issues.

Senator Gibson commented that the drug problem can be corrected by funding rehabilitation programs offer treatment. Otherwise, he commented, prisons will continue to be filled and abusers will return again and again.

Responded to Senator Hornback, who asked about the U.S. Justice Department's decision not to attempt to challenge state laws that allow for medical and recreational marijuana under some circumstances, Mr. Ingram revealed that in the 21 states where marijuana has been legalized, use has gone up. He argued that young people will be apt to use marijuana in those places where it has been legalized for medical purposes.

Responding to Representative McKee, who asked how Kentucky stands in dealing with drug abuse, Mr. Ingram said he was optimistic. He said illicit pill use has been reduced, abuse of oxycodone has declined, and there are fewer methamphetamine labs. He added that older law enforcement officers like him want to see more drug treatment. Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 11:20 a.m.



# 2014 Prefiled Bills

**BR 1** - Representative Diane St. Onge, Representative Brent Yonts (04/11/13)

AN ACT relating to drone surveillance.

Create a new section of KRS Chapter 500 to define “drone,” “law enforcement agency,” and “prohibited agency”; prohibit a law enforcement agency from using a drone to gather evidence or other information; provide exceptions; prohibit use of evidence obtained in violation; provide that the Act may be cited as the “Citizens’ Freedom from Unwarranted Surveillance Act.”

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 7** - Representative Jeff Greer (05/15/13)

AN ACT relating to confirmation of executive appointments.

Amend KRS 304.2-020 to delete the requirement for Senate confirmation of the Governor’s appointment of the commissioner of the Department of Insurance; and amend KRS 342.228 to delete the requirement for Senate confirmation of the Governor’s appointment of the commissioner of the Department of Workers’ Claims.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

**BR 9** - Representative Joni L. Jenkins (09/09/13)

AN ACT relating to alcohol and drug counseling.

Create new sections of KRS 309.080 to 309.089 to establish the requirements for an applicant for registration as an alcohol and drug peer support specialist; mandate that an alcohol and drug peer support specialist complete 500 hours of board-approved experience with 25 hours under the direct supervision of a certified or licensed clinical alcohol and drug counselor with at least two years of post-certification or post-licensure experience; require an alcohol and drug peer support specialist to pass an examination approved by the board; mandate completion of three hours of domestic violence training, specify other hours of training required, and obligate applicant to live or work at least a majority of the time in Kentucky; mandate that a registered alcohol and drug peer support specialist comply with the requirements for the training program in suicide assessment, treatment, and management; establish requirements for an applicant for licensure as a licensed clinical alcohol and drug counselor with a 60 hour master’s degree, or a doctoral degree, including completion of 2,000 hours of board-approved experience, 300

hours of which is under direct supervision of a licensed clinical alcohol and drug counselor; require a licensed clinical alcohol and drug counselor to pass a written examination approved by the International Certification Reciprocity Consortium on Alcoholism and Drug Abuse; include requirement for three hours of domestic violence training and for an applicant to live or work at least a majority of the time in Kentucky; mandate that a licensed clinical alcohol and drug counselor comply with the requirements for the training program in suicide assessment, treatment, and management; direct the board to promulgate administrative regulations to define the registration process for applicants and for supervisors of record; establish supervision required for a practicing registered alcohol and drug peer support specialist; establish reciprocity; set up revolving fund; amend KRS 309.080 to define “licensed clinical alcohol and drug counselor,” “licensee,” “practice of alcohol and drug counseling,” “registered alcohol and drug peer support specialist,” and “registrant”; amend KRS 309.0813 to conform and to delete the requirement for the board to establish an examination committee to administer and evaluate the case method presentation and oral examination; add the requirement for the board to collect and deposit all fees, fines, and other moneys owed to the board into the State Treasury to the credit of a revolving fund; amend KRS 309.083 to change the requirements of supervision for a certified alcohol and drug counselor applicant, permitting supervision from a certified alcohol and drug counselor or licensed clinical alcohol and drug counselor with at least two years of post-certification or post-licensure experience; delete the requirement for a certified alcohol and drug counselor to pass an oral examination approved by the board; mandate three hours of domestic violence training for a certified alcohol and drug counselor; require a certified alcohol and drug counselor applicant to live or work at least a majority of the time in Kentucky; mandate that a certified alcohol and drug counselor comply with the requirements for the training program in suicide assessment, treatment, and management; amend KRS 309.084 to grant, upon application within 90 days from the effective date of this Act, licensure as a licensed clinical alcohol and drug counselor for a certified alcohol and drug counselor with a master’s degree or a doctoral degree meeting all requirements for the clinical designation except for the 60-hour requirement for the master’s degree and the examination; amend KRS 194A.540, 210.366, 222.005, 309.0805, 309.081, 309.085, 309.086, 309.087, and 309.089 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

**BR 11** - Representative John Tilley (10/24/13)

AN ACT relating to domestic violence.

Amend KRS 403.720, relating to domestic violence orders, to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 403.735 to require the court, when a petition involves a minor, to impose conditions that cause the least disruption to education if the parties attend the same school system.

(Prefiled by the sponsor(s).)

**BR 23** - Representative Larry Clark, Representative Jeffery Donohue (07/12/13)

AN ACT relating to reporting on economic incentive programs.

Create a new section of Subchapter 12 of KRS Chapter 154 to require the cabinet to maintain a searchable electronic database containing information on the cost and status of economic incentive programs; specify programs and information to be included; apply to specified programs approved within last five years; require in addition a single annual written report for programs approved in preceding fiscal year; specify programs and information to be included; amend KRS 148.546, 148.8591, 154.12-100, 154.12-208, 154.12-278, 154.20-150, 154.27-050, and 154.31-030 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Economic Development and Tourism

**BR 40** - Representative Hubert Collins (06/27/13)

AN ACT relating to driving under the influence.

Amend KRS 189.520, 189A.010, 189A.120, and 281A.2102 to move the per se DUI threshold from 0.08 to 0.05.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 42** - Representative Brent Yonts (07/19/13)

AN ACT relating to the collection of delinquent taxes.

Amend KRS 44.030 and 131.560 to prohibit the offsetting of a person’s financial claim against the state or a local government, including claims for individual income tax refunds, to satisfy a delinquent property tax debt owed to the state or any local government if the 11-year period established for liens on the property on which the tax has become delinquent has expired; amend KRS 134.015 to extinguish the personal debt of a taxpayer for delinquent property taxes upon the expiration of the 11-year period

established for liens on the property on which the taxes have become delinquent; amend KRS 134.490 to clarify that a third-party purchaser of a certificate of delinquency may institute an action to collect on the certificate anytime after the 1-year tolling period but prior to the 11-year period established in KRS 134.546; amend KRS 134.546 to provide that a certificate of delinquency becomes null and void 11 years from the date when the taxes became delinquent.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 43** - Representative Kim King (10/18/13)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any appropriation or revenue-raising measure voted upon in the Senate or House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for appropriations or revenue measures; require committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

**BR 44** - Representative Kim King (10/18/13)

AN ACT relating to foreign law.

Create new sections of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

**BR 45** - Representative Kim King (10/18/13)

AN ACT relating to school notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or

remove the child from school grounds.  
(Prefiled by the sponsor(s).)

**BR 46** - Representative Kim King  
(10/18/13)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.  
(Prefiled by the sponsor(s).)

**BR 53** - Representative Terry Mills  
(06/11/13)

AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.

Amend KRS 222.005 to define “pathological gambling” and “problem gambling”; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to \$200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council’s membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.

(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on State Government

**BR 64** - Representative Fitz Steele, Representative Leslie Combs (07/11/13)

AN ACT relating to coal severance revenues and declaring an emergency.

Amend various sections in KRS Chapter 42 to distribute 100% of coal severance revenues among the coal producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090 and 164.7891 to make conforming changes; repeal KRS 42.490; EMERGENCY.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

**BR 78** - Representative Ron Crimm  
(07/19/13)

AN ACT relating to the promotion of organ and tissue donation.

Create a new section of KRS Chapter 141 to establish the employers’ organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short

title to be the Living Organ and Bone Marrow Donor Assistance Act.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

**BR 79** - Representative Ron Crimm  
(09/16/13)

AN ACT relating to animals.

Amend KRS 525.125, 525.130, and 525.135 to forfeit ownership of animals involved in cruelty and torture cases and prohibit ownership or possession of animals of the same species for two years.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Judiciary

**BR 99** - Representative Lynn Bechler  
(08/20/13)

AN ACT relating to motor fuels taxes.

Amend KRS 138.210 to remove any adjustment to the “average wholesale price” without the direct action of the General Assembly.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

**BR 100** - Senator John Schickel (09/17/13)

AN ACT relating to naloxone.

Amend KRS 217.186 to allow peace officers, firefighter, paramedics, and emergency medical technicians to use naloxone at the scene of a narcotic drug overdose.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Judiciary

**BR 102** - Representative Addia Wuchner, Representative Denver Butler (08/23/13)

AN ACT relating to weapons.

Amend KRS 237.140, relating to concealed carry licenses for retired peace officers issued in conformity with the federal Law Enforcement Officers Safety Act to allow the annual license to be extended in yearly increments up to four times before a new license is issued.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Judiciary

**BR 116** - Representative Rick G. Nelson  
(08/13/13)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three-day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

**BR 117** - Representative Rick G. Nelson  
(08/08/13)

AN ACT relating to the employment of public school teachers.

Amend KRS 160.345 to require teacher vacancies to be filled by qualified teachers certified through a regular certification program before considering applicants certified through an alternative certification program.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Education

**BR 118** - Representative Fitz Steele, Representative Julie Raque Adams  
(08/20/13)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

**BR 119** - Representative Fitz Steele  
(08/20/13)

AN ACT relating to dextromethorphan abuse.

Create new sections of KRS Chapter 218A to prohibit any person from possessing one gram or more of pure dextromethorphan or dextromethorphan that has been extracted from solid or liquid form; prohibit sale of products containing dextromethorphan as the only active ingredient to individuals younger than 18; require any person selling a product containing dextromethorphan to require that prospective buyers show a photo ID and sign a document stating the customer is older than 18 before purchase; create an affirmative defense for the retailer if a minor utilizes a fraudulent ID; prohibit individuals younger than 18 from misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Judiciary

**BR 121** - Representative Tom Burch  
(09/12/13)

AN ACT relating to consolidated local government funds.

Create a new section of KRS Chapter 67C to define “discretionary funds” and to require any discretionary fund expenditures to be distinctly specified in the budget ordinance or budget amendment ordinance of the consolidated local government before expenditure.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Local Government

**BR 123** - Representative Terry Mills  
(09/19/13)

AN ACT relating to injury prevention and making an appropriation therefore.

Amend KRS 189.292, prohibiting texting while driving, to prohibit the

entering of a telephone number or name into a personal communication device in order to place a call while driving a vehicle in a highway work zone or school zone; amend KRS 189.990(30) to make technical corrections; increase the fines for violations of Section 1 of the Act and KRS 189.294 to \$50 for the first offense and \$100 for subsequent offenses; direct that 50% of the fines collected for violations of these offenses be directed to the Kentucky Injury Prevention and Research Center at the University of Kentucky and appropriate the funds for the purpose of injury prevention research; APPROPRIATION.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Transportation

**BR 126** - Representative Mike Harmon  
(09/27/13)

AN ACT relating to driving under the influence.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to restructure the existing penalties from a four-tiered structure to a three-tiered structure; expand the look-back window for prior offenses from five years to ten years, and to allow forfeiture of motor vehicles used in a DUI if the operator’s license had been previously suspended; amend KRS 281A.2102 to conform.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Judiciary

**BR 127** - Representative Mike Harmon  
(09/27/13)

AN ACT relating to elections.

Amend KRS 118.127 to permit a slate of candidates for Governor and Lieutenant Governor to appear on the ballot only in the general election, not in the primary; require a party’s nominee for Governor to designate his or her nominee for Lieutenant Governor no later than the fourth Tuesday following the primary; if this designation is not filed, require the governing authority of the party to name the candidate for Lieutenant Governor; set forth the oath to be sworn by a slate of candidates; create a new section of KRS Chapter 118 to allow a candidate for Governor to designate a replacement if the candidate for Lieutenant Governor dies, is disqualified, or is disabled; amend KRS 121.015 to redefine “slate of candidates”; amend KRS 117.275, 118.025, 118.105, 118.125, 118.245, 120.055, 120.095, and 121.170 to conform; repeal KRS 118.227.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on State Government

**BR 129** - Senator Jimmy Higdon  
(10/03/13)

AN ACT relating to eminent domain.

Amend KRS 278.502 to allow eminent domain to be used only in cases where the condemnor is a utility regulated by the Public Service Commission.  
(Prefiled by the sponsor(s).)

**BR 132** - Senator Jared Carpenter



(09/06/13)

AN ACT related to anti-bullying.  
Create a new section in KRS Chapter 2 designating October as Anti-Bullying Month in Kentucky and a purple and yellow ribbon as the symbol for anti-bullying awareness.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

**BR 138** - Representative Wilson Stone (08/23/13)

AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency.

Amend KRS 96.895 to provide that, beginning in fiscal year 2014-2015, a portion of the Tennessee Valley Authority in-lieu-of-tax payment made to the Commonwealth and deposited into the general fund shall be transferred to the regional development agency assistance fund to be distributed among fiscal court-designated local industrial development authorities for economic development and job creation activities; provide that the transfer will not affect the portion of the total TVA payment that is currently distributed among local government entities; provide that these transfers will be phased-in over a five-year period, with an amount equal to 50 percent of the general fund portion of the total TVA annual payment being transferred in fiscal year 2018-2019, and each fiscal year thereafter, not to exceed \$6,000,000 each year; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 140** - Representative Rick G. Nelson (08/28/13)

AN ACT relating to firefighters.

Create a new section of KRS Chapter 95 establishing a rebuttable presumption that cancer, resulting in either temporary or permanent disability or death, is an occupational disease for full-time firefighters; establish the guidelines for compensation; establish the types of carcinogens associated with specific types of cancers.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Labor and Industry

**BR 152** - Representative Jim Wayne (09/30/13)

AN ACT relating to tax credits for noise abatement.

Create a new section of KRS Chapter 141 to establish a tax credit for noise insulation installed in a residential structure that is located within a designated airport noise contour; amend KRS 141.0205 to recognize credits.

(Prefiled by the sponsor(s).)

**BR 155** - Representative Sal Santoro, Representative Larry Clark (10/10/13)

AN ACT relating to electrical inspections.

Create new sections of KRS Chapter 227A to specify contents of an

electrical permit and stipulate that applying for a permit implies consent to an electrical inspection; require the Department of Housing, Buildings and Construction to appoint and assign electrical inspectors to each county; permit the department to allow local governments to administer inspection program; require certain work conducted by an electrical utility on customer's property to be performed by an electrician or master electrician; repeal sections of KRS Chapter 227 and reenact as new sections of KRS Chapter 227A with specified changes; reenact and amend KRS 227.460 to provide for electrical inspections by the department if a city fails to establish an authorized program; reenact and amend KRS 227.480 to allow permit applications to be submitted the following day in emergency situations; exempt homeowners doing work on their own homes; require the department to promulgate regulations describing circumstances where inspections are required; reenact and amend KRS 227.487 to allow local programs with a fee schedule established as of January 1, 2014, to continue, and to specify requirements for electrical work requiring a permit; reenact and amend KRS 227.489 to conform; reenact and amend KRS 227.491 to specify recordkeeping requirements by inspectors; reenact and amend KRS 227.492 to conform; reenact and amend KRS 227.495 to give inspectors the authority to pull an electrical service under certain conditions; specify scheduling requirements for inspection; provide permit holder appeal rights; reenact and amend KRS 227.530 to assign the Electrical Advisory Committee to the Electrical Division and appoint the commissioner to the committee; amend KRS 227A.010 to define "alteration," "commissioner," "division," "electrical inspector," "electrical system," and "repair"; amend KRS 227A.030 to conform; amend KRS 227A.050 to specify use of funds in the trust and agency account for the administration and enforcement responsibilities of the division; amend KRS 227A.130 to allow local governments to fix penalties for violations and to establish fines for violation of the chapter; amend KRS 198B.060 to allow local governments to petition for authority to approve electrical permits if the provisions of KRS Chapter 227A are met; amend KRS 211.350 and 227.205 to conform; repeal KRS 132.815, 227.450, and 227.500.

(Prefiled by the sponsor(s).)

**BR 158** - Representative Sannie Overly, Representative Brent Yonts (09/11/13)

AN ACT relating to the legislative branch of state government.  
Amend KRS 6.611 to implement the "no cup of coffee" rule for legislators, limit allowable payments for attendance of individual legislators to events held in-state, define "in-state" and include administrative regulations and legislative proposals not introduced in the General Assembly to the definition of "legislation"; amend KRS 6.701 to specify that sexual and workplace harassment information is to be part of the legislative ethics manual and training program, and specify that the training for legislators is to be

conducted by an individual chosen by the deputy director of human resources; amend KRS 6.711 to specify that sexual and workplace harassment law and policy is to be part of the general curriculum of the legislative orientation courses, make sexual and workplace harassment training mandatory for legislators, specify that the training is to be conducted by a live presenter, expand the orientation training requirement to five hours, and require that two of the five hours of the orientation course is to be devoted to sexual and workplace harassment law and policy; amend KRS 6.716 to include updates on sexual and workplace harassment in the current issues seminar for legislators, and specify that one of the three hours of the current issues seminar is to be devoted to sexual and workplace harassment training; amend KRS 6.747 to specify that the legislative agent or employer may not furnish out-of-state transportation or lodging for a legislator with certain exceptions; amend KRS 6.767 to prohibit a legislator, candidate, or campaign committee from accepting a campaign contribution from an executive agency lobbyist, or an employer of a legislative agent or executive agency lobbyist during a regular session of the General Assembly, except for a special election held during a regular session of the General Assembly; amend KRS 6.811 to prohibit a legislative agent or employer to give anything of value to a legislative candidate, prohibit a legislative agent from soliciting, controlling, or delivering a campaign contribution, prohibit an employer of a legislative agent from making a campaign contribution to a legislator, candidate, campaign committee, or caucus campaign committee during a regular session of the General Assembly, and delete language allowing legislative agents and their employers to purchase food or beverages for legislators not to exceed \$100 ("no cup of coffee" rule); amend KRS 6.821 to conform, and to include the cost of advertising during a General Assembly by an employer of a legislative agent or their affiliates in the employer's statement filed with the Legislative Ethics Commission; create a new section of KRS Chapter 7 to require the Commission, with the assistance of the Personnel Cabinet, to establish a job classification and compensation system for non-partisan employees of the Commission by July 1, 2014, require non-partisan staff to be employed, promoted, disciplined, and dismissed in accordance with that system, allow non-partisan staff to appeal to the Kentucky Personnel Board, require that each non-partisan employee of the Commission have a personnel file that is accessible to the employee, and provide that nothing in this section shall grant rights under KRS Chapter 18A to employees of the Commission; create a new section of KRS Chapter 7 to define "sexual harassment" and "workplace harassment", require the Commission to establish comprehensive policies and procedures to maintain a harassment-free workplace, require the Commission to employ a deputy director for human resources upon recommendation of the director who may only be dismissed by the Commission, provide for partisan staff to make complaints under this

section, require complaints of workplace harassment to be investigated and the findings and recommendations made in a written report to the Commission, prohibit the Commission from providing staff support for a member of the Senate or House, or anyone directly employed by the Senate or the House, who has not consented in writing to be bound by the policies and procedures regarding sexual and workplace harassment; amend KRS 7.090 to require employment of personnel by the Commission to be in accordance with the job classification and compensation system; amend KRS 18A.030 to require the secretary of the Personnel Cabinet to assist the Commission in establishing a job classification and compensation system; amend KRS 18A.075 to the require the Kentucky Personnel Board to assist the Commission in establishing a job classification and compensation system; require the Commission to contract with an external entity within 10 days of enactment of this legislation to evaluate all facets of the policies, procedures, and culture of all Commission staff, require certain experience of the outside entity, and require the entity to recommend best practice in accordance with the requirements of this Act; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

**BR 164** - Representative Rick G. Nelson (09/19/13)

AN ACT relating to probation and parole officers.

Amend KRS 439.310 to require that probation and parole officer staffing levels allow for an active supervision ratio of no greater than 50 offenders per officer.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 168** - Representative John Tilley (09/16/13)

AN ACT relating to eminent domain.

Amend KRS 278.502 to condition the exercise of condemnation authority upon approval of the Public Service Commission, which may be given only after review of delineated statutory criteria.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Energy Special Subcommittee

**BR 173** - Representative Jesse Crenshaw (09/26/13)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a non-violent, non-sexual felony the right to vote after expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

<p><b>BR 174</b> - Senator John Schickel (09/30/13)</p> <p>AN ACT relating to school funding.</p> <p>Amend KRS 157.310 to clarify the intention of the General Assembly that no mandate be placed on the public schools without program funding to carry out the mandate; require legislation relating to the public schools that includes a fiscal note pursuant to KRS 6.955 or a state mandate pursuant to KRS 6.965 to include provision for funding that is adequate for compliance with the mandate; clarify that no school district shall be compelled to comply with mandated enactments of the General Assembly that do not provide adequate funding; specify that this amendment does not relieve a school district from the obligation to comply with state or federal laws relating to health, safety, or civil rights.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 176</b> - Senator John Schickel (09/30/13)</p> <p>A RESOLUTION adjourning the Senate in honor of Dr. Julie Metzger Aubuchon upon being named Kentucky Optometrist of the Year.</p> <p>Adjourn in honor of Dr. Julie Metzger Aubuchon upon being named Kentucky Optometrist of the Year.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 184</b> - Senator John Schickel, Senator Christian McDaniel (10/08/13)</p> <p>A RESOLUTION adjourning the Senate in honor and loving memory of Henry Lawson Walker II.</p> <p>Adjourn in honor and loving memory of Lawson Walker II.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 189</b> - Senator Ray S. Jones II (10/22/13)</p> <p>AN ACT relating to commercial vehicle enforcement officers.</p> <p>Amend KRS 16.191 to require that Commercial Vehicle Enforcement Officers are paid equally to Kentucky State Police Officers with the equivalent rank, grade, and position; provide short title.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 194</b> - Representative Kevin D. Bratcher (10/22/13)</p> <p>A JOINT RESOLUTION directing the Kentucky Law Enforcement Council to study current and needed post-traumatic stress disorder training, policies, and resources for peace officers.</p> <p>Direct the Kentucky Law Enforcement Council to study current and needed post-traumatic stress disorder training, policies, and resources for peace officers; require a report to the Legislative Research Commission by November 1, 2014.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 198</b> - Representative David Floyd (10/03/13)</p>	<p>AN ACT relating to eminent domain and declaring an emergency.</p> <p>Amend KRS 278.502 to apply its provisions only to utilities under the jurisdiction of the Public Service Commission; EMERGENCY.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 211</b> - Senator Gerald A. Neal (10/15/13)</p> <p>AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.</p> <p>Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a felony other than treason, intentional killing, a sex crime, or bribery the right to vote after expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 217</b> - Representative Terry Mills (10/23/13)</p> <p>AN ACT relating to disabled parking placards.</p> <p>Amend KRS 189.456 to add advanced practice registered nurse to those who may submit a statement of disability for an accessible parking placard.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 219</b> - Representative Rita Smart (10/11/13)</p> <p>AN ACT relating to anti-bullying.</p> <p>Create a new section of KRS Chapter 2 to designate October as Anti-Bullying Month in Kentucky; designate a purple and yellow ribbon as the symbol for anti-bullying awareness.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 220</b> - Senator John Schickel (10/14/13)</p> <p>A RESOLUTION honoring Mann Elementary School on being selected as a 2013 National Blue Ribbon School.</p> <p>Honor Mann Elementary School on being named a 2013 National Blue Ribbon School.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 221</b> - Senator John Schickel (10/21/13)</p> <p>A RESOLUTION adjourning the Senate in honor and loving memory of Milton J. Roth.</p> <p>Adjourn in honor and loving memory of Milton J. Roth.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 222</b> - Representative Jim Wayne (10/18/13)</p> <p>AN ACT relating to tolls.</p> <p>Create a new section of KRS Chapter 141 and amend KRS 141.0205 to create a refundable income tax credit for eligible persons who pay tolls to commute to work across an Ohio River bridge; create a new section of KRS Chapter 175B to establish an exclusion for tolls for mass transit vehicles operated by a public agency or a subsidiary of a municipal government;</p>	<p>create a new section of KRS Chapter 141 to require a transfer from the road fund to the general fund for the amount of toll credit allowed.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 230</b> - Representative Gerald Watkins (10/10/13)</p> <p>AN ACT relating to cable television.</p> <p>Create a new section of KRS Chapter 65 to require that any contract between a local government and a cable television service provider include a provision requiring the cable provider to offer access to channels individually.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BR 250</b> - Senator Ray S. Jones II (10/18/13)</p> <p>AN ACT relating to the Public Service Commission.</p> <p>Amend KRS 278.050 to increase membership of the Public Service Commission (PSC) from three to seven commissioners; require an election of the commissioners in accordance with KRS Chapter 118; provide that initial election of PSC commissioners shall be at the regular election in November 2016; provide that each member of the commission shall be eligible for membership in the Kentucky Employees Retirement System as set forth in KRS 61.515 to 61.705; amend KRS 278.060 to change qualifications of the commissioners; amend KRS 278.120, 278.702, 11A.010, 11A.040, and 11A.050 to conform; repeal KRS 278.070.</p> <p>(Prefiled by the sponsor(s).)</p> <p><b>BRs by Sponsor</b></p> <p>* - denotes primary sponsorship of BRs</p> <p><b>Senate</b></p> <p>Carpenter, Jared BR132* Higdon, Jimmy BR129* Jones II, Ray S. BR189*, 250* McDaniel, Christian BR184 Neal, Gerald A. BR211* Schickel, John BR100*, 174* BR176*, 184*, 220*, 221*</p> <p><b>House</b></p> <p>Adams, Julie Raque BR118* Bechler, Lynn BR99* Bratcher, Kevin D. BR194* Burch, Tom BR121* Butler, Denver BR102 Clark, Larry BR23*, 155 Collins, Hubert BR40* Combs, Leslie BR64* Crenshaw, Jesse BR173*</p>	<p>Crimm, Ron BR78*, 79* Donohue, Jeffery BR23 Floyd, David BR198* Greer, Jeff BR7* Harmon, Mike BR126*, 127* Jenkins, Joni L. BR9* King, Kim BR43*, 44*, 45*, 46* Mills, Terry BR53*, 123*, 217* Nelson, Rick G. BR116*, 117*, 140*, 164* Overly, Sannie BR158* Santoro, Sal BR155* Smart, Rita BR219* St. Onge, Diane BR1* Steele, Fitz BR64*, 118*, 119* Stone, Wilson BR138* Tilley, John BR11*, 168* Watkins, Gerald BR230* Wayne, Jim BR152*, 222* Wuchner, Addia BR102* Yonts, Brent BR1, 42*, 158</p> <p><b>Index Headings</b></p> <p>Administrative Regulations and Proceedings Aeronautics and Aviation Alcoholic Beverages Alcoholism Animals, Livestock, and Poultry Appropriations Arbitration Budget and Financial Administration Children and Minors Cities Civil Actions Civil Procedure Civil Rights Claims Coal Commendations and Recognitions Communications Consolidated Local Governments Constitution, Ky. 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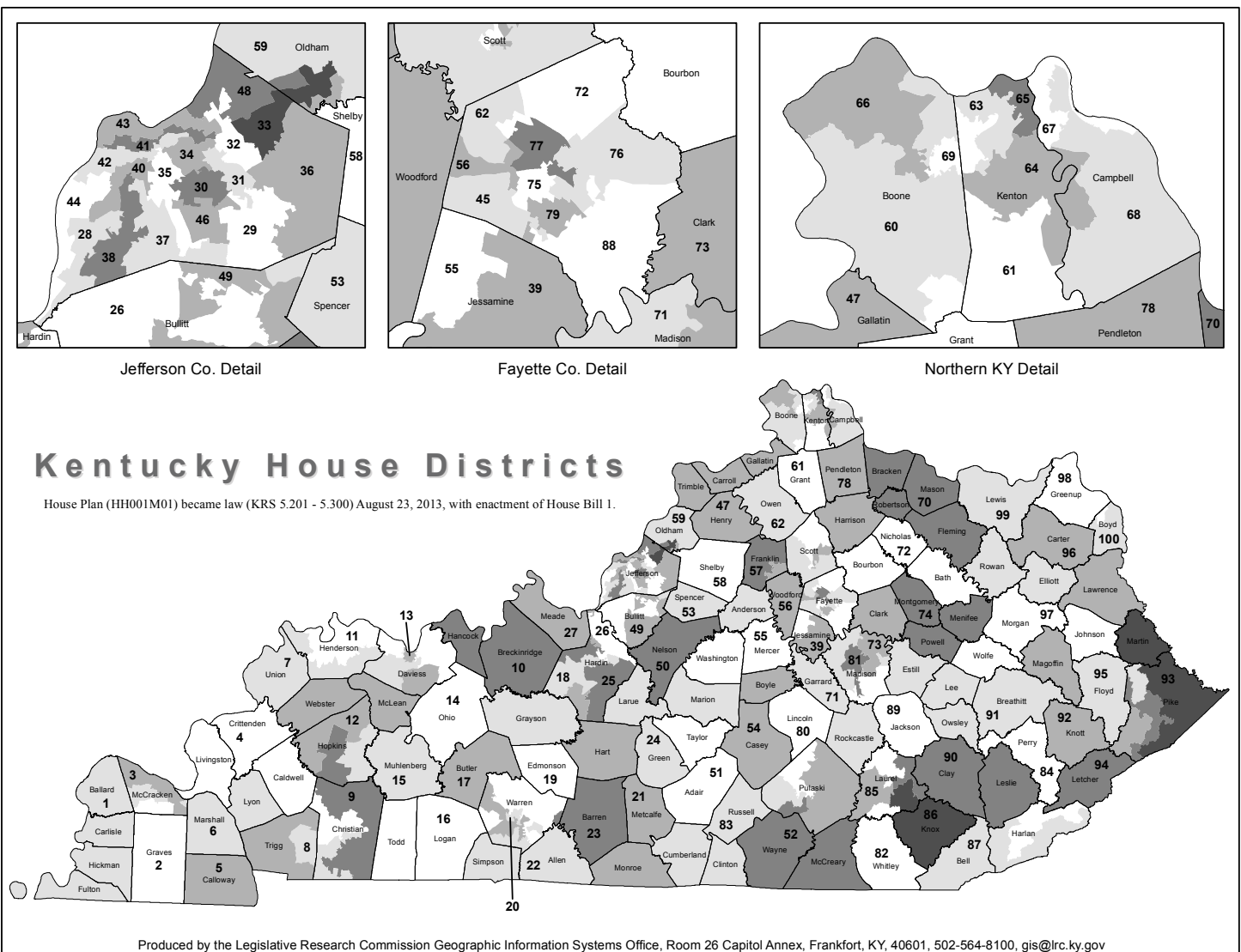
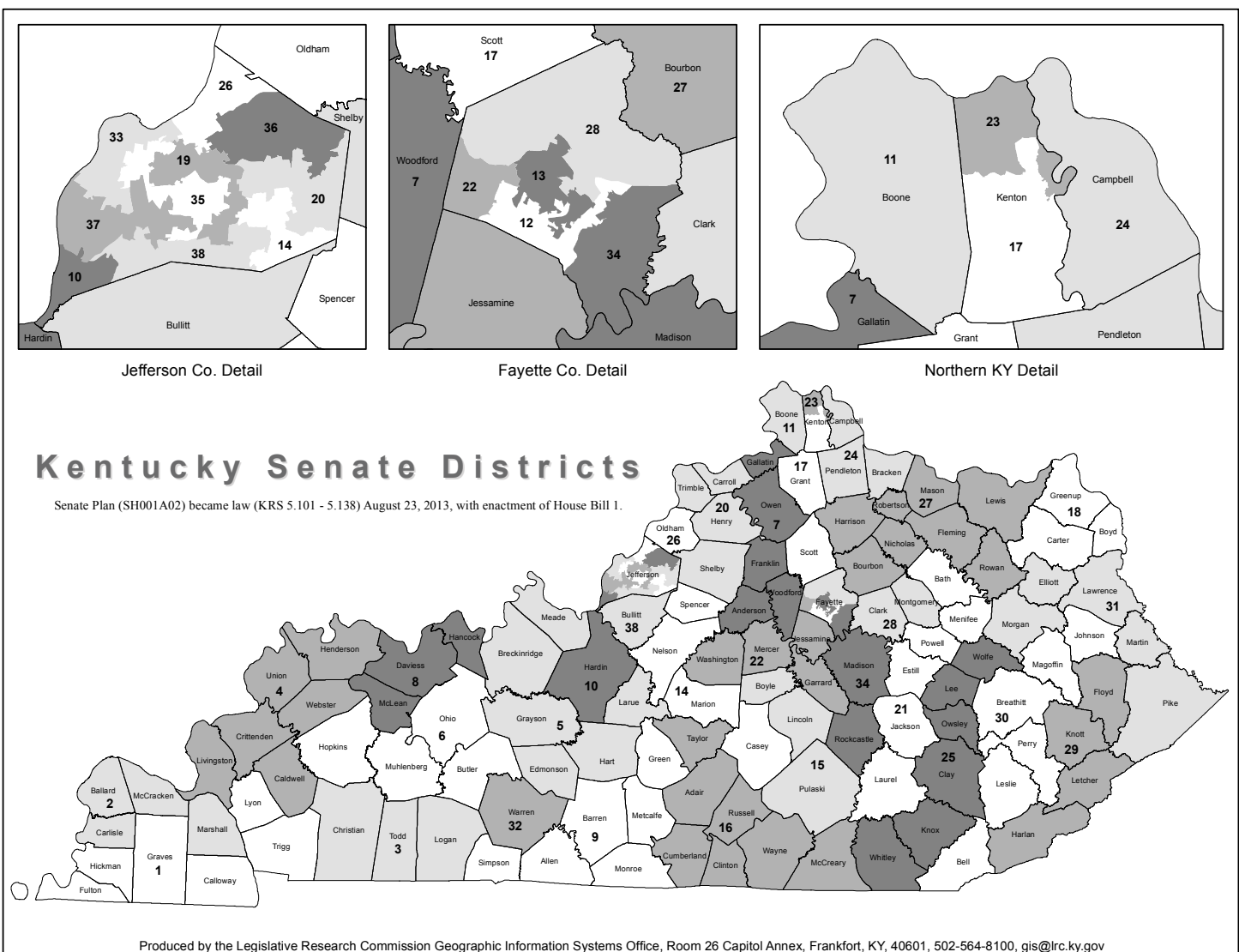
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